CRIMINAL ABORTION

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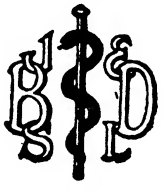

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PREFACE.

I do not think any work on Criminal Miscarriage has been published in this country for very many years, and as there can be no doubt that the illegal induction of abortion is very considerably on the increase, the present time seems to be an appropriate one to discuss the subject in its various aspects.

The book contains information on the frequency, the methods, and the dangers of criminal abortion. The law on the subject both in this and other countries is dealt with, and most of the well-known cases which have occupied the attention of the Courts for the last 130 years, since abortion became a Statutory offence, are referred to. The necessity for strengthening the law in respect of abortifacient advertisements is discussed, the duties of medical men and the dangers to which they are exposed are set out, and many other matters in connection with illegal operations are referred to.

It is hoped that the facts collected here will be of use to those who study them, and that those to whom the subject of criminal abortion appeals will find something of interest in this book.

I am greatly indebted to my friend, Mr. Eric Neve, for his kindness in advising me on many points in connection with the legal aspect of this work. His help has been invaluable.

L. A. PARRY.

Hove,
October, 1931.

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CHAPTER I.

NATURAL ABORTION.

ABORTION (from the Latin *aboriri*, to fail to be born), as used in medicine, refers to the expulsion of the contents of the gravid uterus during the first six months of pregnancy, i.e., before the time at which delivery of a living child is possible. It is in this sense synonymous with miscarriage. After this time till full term, namely from the sixth to the ninth month, delivery is referred to as premature labour. (By some, abortion is limited to the first three months, and miscarriage to the next three months.) But in law this distinction is not observed. By criminal abortion is meant the unlawful expulsion of the contents of the womb during any part of the period of gestation, short of actual delivery. Fœticide, a term now rarely used, is the destruction of the fœtus before it is fully born and has an existence of its own. It is not identical with criminal abortion, for as the result of the latter procedure it is possible for a viable, though premature, child to be born.

The subject of abortion may be classified in three divisions:—

(1) Natural abortion.
(2) Artificial or therapeutic abortion.
(3) Criminal abortion.

NATURAL ABORTION.

This is an exceedingly common event; in the days when women had normal families, few went through life without at least one such occurrence. Whitehead, in a

series of cases of pregnancy, found that abortion took place in one in seven. Galabin estimates an even greater frequency, one in five. Hegar puts abortions as one in eight; Burch and Moster, one to 5·5; Priestly, one to 4·3; Rimette, from Paris Maternité figures, from 1897 to 1905, gives the proportion as one in seven; Michailoff, in over 250,000 cases in the Russian maternity hospitals (this was before abortion was legalized), at one in ten; Keyssner, one to 5·6; Taussig of Washington, one to 2·3 These figures vary very considerably, and no doubt the methods of computation are not all the same. Probably about one in seven is a fair average.

It is essential in dealing with the subject of criminal abortion that one should be familiar with the facts of natural abortion, so that proper consideration may be given to the latter when any question of an illegal operation arises.

The causes of natural abortion may be divided into those due to the mother, and those due to the fœtus.

Maternal Causes.—All acute febrile diseases (influenza, typhoid, scarlet fever, pneumonia, malaria).

Serious illnesses (extreme malnutrition, excessive vomiting of pregnancy, heart disease, cirrhosis of the liver, lead poisoning).

Sudden and violent emotion (fright, grief, anxiety, shock).

Local diseases of the organs of reproduction (fibroids, metritis, retroversion of the uterus).

Accidents (blows, falls, lifting heavy weights).

Fœtal Causes.—Diseases of the membranes (fatty degeneration, hydatidiform changes).

Diseases of the embryo (malformations, torsion of the cord).

As the attachment of the ovum to the uterine wall is less firm in the early months of pregnancy, it is during this period, the first four months, that natural abortion most frequently occurs. Kneise, in 500 cases, found that 82 per cent. happened at this time. Within the first few weeks of pregnancy, many abortions pass quite unrecognized. A woman misses a period, a few days or perhaps one or two weeks go by, then hæmorrhage occurs, much like natural menstruation and a very early miscarriage takes place unknown to the patient. The later the stage

of pregnancy at which a miscarriage happens, the more nearly does it resemble natural labour.

Many women abort very readily, the least excitement or accident being sufficient to cause the expulsion of the fœtus. In others a great degree of shock is required for the setting up of a miscarriage. In bygone times, under the influence of terror and pain, martyred women have aborted, and condemned women have been known to have a miscarriage prior to execution. Abortions are very common in war time, especially near the seat of operations. They were frequent in Paris during the siege of 1870.

On the other hand, many cases are recorded which show that some women are immune, for even severe and repeated violence fail to produce abortion. Dr. Guibaut records the case of a young lady who lived in California. Becoming pregnant, she wished to go to her home in Munich to be delivered. In crossing the Isthmus of Panama, a railway collision occurred. In consequence of this, pains resembling those of labour set in. Nevertheless, she embarked for Portsmouth. She had a horrible passage, with fresh accidents, and on reaching Paris fell from top to bottom of the hotel stairs. Again she was seized with pains, again they subsided. She was then eight months pregnant. Next day she departed for Munich where, in due course, she had her baby in the normal manner.

A woman nearing the end of her pregnancy fell on the sharp edge of a trunk. When birth took place at the natural time, a bruise was found on the abdomen of the child, which disappeared ten days later. Although the injury was sufficiently severe to bruise the fœtus, no miscarriage took place.

Natural abortion is more frequent in those who have had children than in primiparæ, according to Franz twenty to one, and it occurs more often in those who have previously aborted. It is also more prone to happen at times corresponding to monthly periods.

As a rule the ovum comes away entire, in its membranes, up to the end of the third month. But after that time the membranes rupture, the liquor amnii and the fœtus escape, followed by the placenta. During the middle period of pregnancy, when the placenta is only partly

formed, it is more likely to be retained wholly or in part.

The main symptoms of a miscarriage are uterine pain and hæmorrhage, which last a few days. In the first two months the hæmorrhage is like that of an ordinary monthly period, and the cases are quite frequently not recognized as abortions. After the second month other symptoms are often met with, such as bearing-down pains in the pelvis, followed by a watery discharge and then hæmorrhage. This may be slight and soon stop, or it may become profuse. Sometimes it ceases and then recurs. The contractions of the womb become more and more severe till the fœtus is expelled.

The diagnosis of abortion is made from the symptoms of uterine pain and hæmorrhage in a pregnant woman, together with the discovery on examination that the cervix is dilated. Sometimes the ovum can be felt presenting. All clots passed must be carefully broken up and examined for an embryo. If there are no clots and the pain and hæmorrhage have ceased, it is difficult to be sure whether there has been a miscarriage and, if there has, whether all the contents of the uterus have been expelled.

The prognosis of natural abortion is good. Rarely, death may occur from hæmorrhage or sepsis. At the Rotunda Hospital, in 234 cases there was only one fatality and that was from heart disease. This compares very favourably with the results from criminal abortion, where death is a very common termination.

Treatment.—Threatened abortion. All that is required is perfect rest in bed and the use of opium in small doses to check uterine action.

Inevitable Abortion.—It is best to leave matters to nature, provided there are no complications, such as excessive hæmorrhage, or retention of placenta. Under these circumstances, the embryo must be removed as soon as possible by dilating the cervix (if not already sufficiently patent) and removing the contents of the uterus by the finger, assisted if necessary by the ovum forceps.

Incomplete Abortion.—The retained placenta should not be allowed to remain more than twenty-four hours in the uterus. If it has not by that time been expelled,

it should be removed as above. If the case does not come under the care of the doctor till a late stage, it will probably be necessary to dilate the cervix with Hegar's dilators and gently curette the uterus with a blunt instrument.

The patient should be kept in bed at least a week after any abortion has taken place, so that the uterus may undergo involution satisfactorily.

CHAPTER II.

ARTIFICIAL OR THERAPEUTIC ABORTION.

THIS is a very controversial subject and one on which diverse opinions are held. Many questions arise in connection with it. Is there such a thing as the lawful procuring of abortion? Does the law recognize as legal the procuring of abortion by a qualified practitioner for the purpose of saving the life or health of the mother? There is nothing in the sections of the Act of 1861 which definitely states that therapeutic abortion is legal, but it appears to me that the words "shall unlawfully administer drugs," and "shall unlawfully use instruments," clearly imply there are circumstances under which "administer" and "use" may be lawful. This interpretation of mine is not, however, accepted by all medical jurisprudents, and the strict legal position is still in doubt. In spite of the following opinion received from my nephew, Mr. Peter Parry, a member of the Bar, I still think my view is correct: "As regards therapeutic abortion, the use of the word 'unlawfully' in the Statute is not, I think, sufficient to give rise to the inference of a lawful form of deliberate abortion existing. I think the 'lawful' kind of abortion would be a case where abortion was caused unintentionally in the course of doing something perfectly lawful, e.g., examination of a pregnant woman with an instrument, although perhaps unwise, is not unlawful if the purpose is only examination, and if such examination produced an abortion without there being an intent to do so, this would not be 'unlawfully procuring.' There are, however, dicta of the judges which certainly incline to your view, e.g., Grantham, J., in Collin's case, 1898."

I here quote two other legal opinions on this matter. Mr. Justice Salter, in a discussion before the Medico-Legal Society, said: "It is at least arguable that the legislature in forbidding the unlawful use of instruments

or drugs implied that there was such a thing as lawful use."

Counsel gave the following opinion to the Royal College of Physicians in 1896: "We are of opinion that the law does not forbid the procurement of abortion during pregnancy or the destruction of the child during labour, where such procurement or destruction is necessary to save the mother's life."

It will be observed that these are only the opinions of lawyers, and not judicial pronouncements.

There has never been a decision by the judges on the question. But as a matter of actual practice, therapeutic abortion is recognized as perfectly lawful. No doctor has ever been prosecuted for performing the operation. It is wise, more than wise, actually imperative for the protection of the medical man, that before he carries out a therapeutic abortion he should consult some colleague of repute and obtain his agreement that the operation is necessary in the interest of the life or health of the patient. At the same time, he should have the written consent of the woman and her husband to perform the operation.

Medical opinion is definite that there are conditions under which it is the bounden duty of a medical man to induce abortion for his patient. Some doctors find the occasion for this rather frequently, others very rarely indeed.

Whatever may have been the correct interpretation of the law until 1929, the passage of an Act of Parliament entitled "An Act to amend the law with regard to the destruction of children at or before birth" has definitely altered the conditions.

The Act was passed to remedy a curious defect in English law, for whilst it was criminal to destroy a child by procuring abortion or to kill it directly after birth (infanticide), it was no offence to cause the death of a child during the actual process of birth.

It is now quite clear that the operation of procuring abortion is legal under certain circumstances, namely, that it is done to save the life of the mother, and that the seventh month of pregnancy has been reached. This still leaves the main question of the legality of therapeutic abortion for preserving the life or health of

the mother during the first seven months, or for preserving the health of the mother after seven months (for it is legalized only after seven months and then only for saving the life, not the health, of the mother), in the same unsatisfactory position as before the passing of the Act. It will also be noticed that the onus of proof that the operation was *not* done in good faith for the purpose of saving the life of the mother, is on the prosecution, a safeguard for medical men acting *bona fide*. The Act is a very brief one and is quoted in full :—

A.D. 1929.

An Act to amend the law with regard to the destruction of children at or before birth.

[10th May, 1929.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Punishment for child destruction.

1.—(1) Subject as hereinafter in this subsection provided, any person who, with intent to destroy the life of a child capable of being born alive, by any wilful act causes a child to die before it has an existence independent of its mother, shall be guilty of felony, to wit, of child destruction, and shall be liable on conviction thereof on indictment to penal servitude for life :

Provided that no person shall be found guilty of an offence under this section unless it is proved that the act which caused the death of the child was not done in good faith for the purpose only of preserving the life of the mother.

(2) For the purposes of this Act, evidence that a woman had at any material time been pregnant for a period of twenty-eight weeks or more shall be primâ facie proof that she was at that time pregnant of a child capable of being born alive.

Prosecution of offences.

2.—(1) A court of quarter sessions shall not have jurisdiction to inquire of, hear, or determine any indictment for an offence under this Act, or for an attempt to commit any such offence.

24 & 25 Vict. c. 100.

(2) Where upon the trial of any person for the murder or manslaughter of any child, or for infanticide, or for an offence under section fifty-eight of the Offences against the Person Act, 1861 (which relates to administering drugs or using instruments to procure abortion), the jury are of opinion that the person charged is not guilty of murder, manslaughter or infanticide, or of an offence under the said section fifty-eight, as the case may be, but that he is shown by the evidence to be

guilty of the felony of child destruction, the jury may find him guilty of that felony, and thereupon the person convicted shall be liable to be punished as if he had been convicted upon an indictment for child destruction.

(3) Where upon the trial of any person for the felony of child destruction the jury are of opinion that the person charged is not guilty of that felony, but that he is shown by the evidence to be guilty of an offence under the said section fifty-eight of the Offences against the Person Act, 1861, the jury may find him guilty of that offence, and thereupon the person convicted shall be liable to be punished as if he had been convicted upon an indictment under that section.

(4) Section sixty of the Offences against the Person Act, 1861 (which provides that a person acquitted of the murder of any child, or of infanticide, may, if shown by the evidence to be guilty of concealing the birth, be convicted and punished accordingly), shall apply in the case of the acquittal of a person on an indictment for child destruction as it applies to the acquittal of a person on an indictment for murder or infanticide.

(5) Section four of the Criminal Evidence Act, 1898, shall have effect as if this Act were included in the schedule to that Act. 61 & 62 Vict. c. 36.

8.—(1) This Act may be cited as the Infant Life (Preservation) Act, 1929. Short title and extent.

(2) This Act shall not extend to Scotland or Northern Ireland.

The ethical questions connected with therapeutic abortion have exercised the minds of the profession for a very long time. The first general medical agreement upon the matter was in 1756, when there was a consultation of the most eminent medical men in London to consider the moral rectitude of and the advantages which might be expected from the operation. There was general approval of the view that it was a procedure which was perfectly justified, provided the condition referred to, namely, that there was a danger to the life or health of the mother, was present.

The following may be taken as a fair view of professional opinion as it now stands. There are three main conditions which may be regarded as indications for the production of artificial abortion: (1) The toxæmias of pregnancy, which do not yield to treatment, such as convulsions and coma (eclampsia), uncontrollable vomiting, and kidney disease. (2) Chronic diseases aggravated by

pregnancy, such as diabetes, nephritis, tuberculosis, heart disease, malnutrition, and sometimes mental and nervous states. (3) Obstruction of the passages owing to a contracted or deformed pelvis, or contraction of the vagina due to scar tissue.

Dr. Fairbairn in an address delivered at a joint meeting of the Obstetrical Section of the Royal Society of Medicine and the Medico-Legal Society, thus summarized the modern view:—

"The cases in which pregnancy occurs in a woman with some chronic disease which may be aggravated by the pregnancy form a group in which the results to be obtained by determining the pregnancy are open to more difference of opinion than those of the first group, namely, the toxæmias of pregnancy, in which most agree that the induction of abortion is necessary. In some affections such as chronic kidney disease, and diabetes, there will be general agreement that pregnancy should be ended, but in regard to tuberculosis, heart disease, grave malnutrition, nervous and mental states, there is room for considerable variation in practice. The effect of the pregnancy is speculative, and many accept without question the ill-effect they think may arise, and end the pregnancy forthwith. Others advocate the induction of abortion only when there is definite evidence that the disease is being aggravated. In heart disease, for instance, my own experience is that if the woman does not improve by rest in bed and medical treatment, neither will she improve by ending the pregnancy, and sometimes the operation acts as the finishing touch. The case of a woman who has suffered from insanity in a previous pregnancy is an especially difficult problem. Should the next pregnancy be ended for fear of a return of the mental disorder, that may or may not recur. The usual rule is that if the second pregnancy has followed soon after the one in which trouble arose, it should be terminated; also in any case in which insanity has occurred in more than one previous pregnancy. On the other hand, if there had been some complication such as excessive bleeding or septic infection which was clearly the provoking cause of the mental disorder, it is usual to allow the pregnancy to continue and to trust to general medical treatment. There is, however, in all serious dis-

orders of the mother, something to be said for relieving her of the physical and mental strain of bearing and rearing a child even if statistics show little gain from it. Laymen will readily appreciate, however, the difficulty of the medical practitioner who is faced with the case of a woman suffering from a serious medical condition, or who has had previous mental disorder and is pregnant. The husband and relatives look on the pregnancy as the aggravating factor in her condition and press for its removal. The doctor may know that its effect is of no moment, but he will never convince his patients and the pressure on him becomes too strong to resist. Or again, he may recognize that a tuberculous pregnant woman will do better in a sanatorium, but he cannot find accommodation for her, or she may refuse to leave home, and he adopts the easy alternative of putting an end to her pregnancy.

The commonest cases in hospital, at any rate, for resort to this operation are those in which abortion has already begun, either spontaneously or from some accidental cause, or provoked by the taking of drugs, and the woman is ill from hæmorrhage or infection of the damaged pregnancy or portions of it left in the womb. There are also less common cases in which the pregnancy is found to be diseased and incapable of further development, and a possible source of danger to the mother. . . . In these cases the only room for difference of opinion would be as to when the evidence would be sufficient to indicate that the pregnancy was too damaged to continue, or that it formed a definite risk to the mother. These points granted, there would be general agreement as to the need for its termination.

The original principle that guided the profession was that the procuring of abortion was lawful only if the woman's life was in danger if the pregnancy continued, but the principle was rightly extended to include also serious or permanent damage to her health. For example, it has been recognized that the serious eye changes that may occur with the kidney lesions of pregnancy were in themselves a definite reason for bringing the pregnancy to an end. Rapid amelioration of the sight results. If the pregnancy continues, permanent impairment, sometimes total loss of vision results. We have only to think

what blindness of the mother means to her family to realize how clearly interference is justified.

Before, however, damage to her health can be predicted, the woman must be kept under observation and treatment for such time as would suffice to show that progressive deterioration of her health left no alternative to the induction of abortion. The principle of danger to the life and health of the mother has also been jettisoned, and many in the profession go so far as to act on the supposition that it is not unlawful to take into consideration other than purely medical factors and to allow social, economic, and eugenic factors to weigh in coming to a conclusion. The effect of the spread of laxer views is serious, for once the public learn that abortion can be procured respectably, every woman will fail to see why her medical attendant should hesitate in her case."

As an actual instance, the following example in the practice of one doctor may be quoted. Out of some fifty cases on which he operated, eighteen were of acute albuminuria, fifteen of severe vomiting, eleven of heart disease, and a few were cases of glycosuria, chorea, cancer of the breast, placenta prævia, and other conditions.

Many methods of inducing therapeutic abortion have been devised. The general opinion of the profession at the present time is that in early cases, i.e., up to the third month, the cervix should be dilated and the ovum at once removed. After the third month, the slow method is better. The membranes should be ruptured; or the cervix dilated by tents, metal dilators, or the hydrostatic bag; or soft rubber bougies should be passed into the uterus. All of these are usually satisfactory. Another method is that of injecting tepid water into the uterus. Dr. Lazarewitch records twelve cases in which he tried this procedure, all successful. (In most of the instances the woman had reached a much later stage of pregnancy than is usually arrived at when criminal abortion is attempted.) It is not a method which has found favour with gynæcologists, and is not used much at the present time.

Recently, Mr. Drew Smythe has suggested the following method for the induction of therapeutic abortion. It appears to present advantages over the older methods, and is quite simple to carry out.

He thus describes his practice. "The method of induction I always employ is a modification of the old method of rupture of the membranes. For this purpose I have made a double curved silver catheter, similar to a prostatic catheter with a blunt-ended stylet, which can be protruded at the distal end of the instrument. The vagina and cervix are cleaned up thoroughly with ether soap, and then with surgical spirit. Thorough cleansing of the vagina and cervix is essential in order to prevent any chance of introducing sepsis with the passage of the catheter. A Sim's speculum is introduced, and the cervix may be seized with a vulsellum forceps, but this is not necessary unless the cervix is very posterior. No dilation of the cervix is required. The catheter with the point of the stylet withdrawn is passed up the cervical canal until it meets the child's head; the proximal end is then raised and the point of the catheter is passed behind the head, between the uterine wall and the membranes. When the point of the catheter has passed above the child's head, the stylet is pushed home and the proximal end depressed; by so doing the distal end ruptures the membranes. The eyelets of the catheter are now in the amniotic cavity, and liquor amnii commences to flow through the catheter, and is collected in a measured vessel. From half to one pint is drawn off, depending on the amount of liquor amnii present, and when sufficient has been collected the catheter is withdrawn. After the withdrawal of the catheter there is practically no further escape of liquor, so that when labour commences a definite quantity of amniotic fluid is still present."

The author claims that the advantages of the method are that the opening in the membranes is made well away from the cervix, so diminishing the chance of septic infection of the liquor, that the bag of membranes is retained, and that there is no foreign body left in the uterus to invite sepsis or damage the uterine wall. The method is extremely simple and safe both for the mother and child. Labour usually commences within twenty-four hours, but may be delayed for three or four or even more days.

CHAPTER III.

ATTITUDE OF THE ROMAN CATHOLIC CHURCH TO THERAPEUTIC ABORTION.

THE rules of the Catholic Church do not permit the procuring of therapeutic abortion. Believing that from the moment of conception a human being has been created, the Church does not allow the operation at any stage of pregnancy. If the fœtus is dead, no objection is offered to its removal, but distinct proof of the death is demanded. Unless it can be shown that this has occurred, they regard the fœtus as alive. Even to save the life of the mother, the operation of inducing abortion is not permissible. One of the Canon Laws of the Church of Rome reads as follows : " Omnes, qui abortus seu foetus immaturi, tam animati quam inanimati, formati vel informis, ejectionem procuraverint, poenas propositas et inflictas, tam divino quam humano jure, ac tam per canonicas sanctiones et apostolicas constitutiones quam civila jura adversus veros homicidas incurrere, hac nostra perpetuo valitura constitutione statuimus et ordinamus."

A doctor, confronted with the question whether he should perform the operation for expelling the fœtus in order that he may save either the life or health of the mother, finds that it is not possible to conform to modern obstetric practice and at the same time be a good Catholic. The patient, for the sake of her future well-being, needs the operation, but the Catholic doctor, holding the view that the destruction of the fœtus is a serious crime forbidden by his religion, is unable to carry out the procedure. If the fœtus has reached an age when it can live, then there is no objection from the Catholic point of view to hastening its appearance in the world. But as from the very moment of conception the fœtus is regarded by the Catholic Church as being fully entitled to life, it must be preserved by its guardians in every

ordinary way, that is, by being allowed to remain in the womb until it is capable of living by itself.

The Rev. Fr. A. Winsborough, writing on this subject in the *Catholic Medical Guardian* for October, 1929, makes the following considered statement of the present-day view of the Catholic Church on this very important matter: "The soul of every new human being begins to exist when the cell which generation has provided is ready to receive it as its principle of life. The natural law forbids the direct killing of innocent life, and the fœtus, as much a human soul as the grown man, comes under the protection of this law. The definite application of this law by the Church admits of no doubt. It was decreed by the Tribunal of the Holy Office in May, 1884, and August, 1889, that 'it cannot be safely taught in Catholic schools that it is lawful to perform any surgical operation which is directly destructive of the life of the fœtus or mother.' There can be no practical issue in dissecting the word 'safely,' for 'directly destructive' makes the Decree perfectly clear. It may be that an operation which is now regarded as directly destructive, will in the light of further pathological discoveries be regarded as indirect destruction, and in that possibility a particular operation could not be definitely condemned. Abortion was condemned by name in July, 1895, in answer to a question whether when the mother is in immediate danger of death, and there is no other means of saving her life, a physician can with a safe conscience cause abortion, not by destroying the child in the womb, but by giving it a chance to be born alive, though not being yet viable it would soon die. The answer was that he cannot."

The late Catholic Bishop of Boston (Mass.) put the position in the following clear and forcible manner: "The doctrine of the Catholic Church, her canons, her pontifical constitutions, her theologians, without exception, teach, and constantly have taught, that the destruction of the human fœtus in the womb of the mother, *at any period from the first instant of conception*, is a heinous crime, equal at least, in guilt, to that of murder. We find it distinctly condemned as such even as far back as the time of Tertullian (at the end of the second century), who calls it *festinatio homicidii*, a hastening of murder.

The Pope Sixtus the Fifth, in a bull published in 1588, subjects those guilty of the crime to all the penalties, civil and ecclesiastical, inflicted on murderers. It is denounced and reprobated in many other canons of the Church.

"The reason of this doctrine (apart from the authority of the Church) must, it seems to me, appear evident upon a little reflection. The very instant conception has taken place, there lies the vital germ of a man. True, it is hidden in the darkness of the womb, and it is helpless; but it has sacred rights, founded in God's law, so much the more to be respected because it is helpless. It may be already a living man, for neither mothers nor physicians can tell when life is infused; they can only tell when its presence is manifested, and there is a wide difference between these two things. At any rate, it is from the first moment potentially and *in radice* a man, with a body and a soul destined, most surely, by the will of the Creator and by His law, to be developed into the fullness of human existence. No one can prevent that development without resisting and annulling one of the most important and sacred laws established by the Divine Author of the universe; and he is a criminal, a murderer, who deals an exterminating blow to the incipient man, and drives back into nothingness a being to whom God designed to give a living body and an immortal soul.

From this it follows, that the young woman whose virtue has proved an insufficient guardian to her honour, when she seeks by abortion to save in the eyes of man that honour she has forfeited, incurs the additional and deeper guilt of murder in the eyes of God, the judge of the living and the dead. Who can express what follows with regard to those women who, finding themselves lawfully mothers, prefer to devastate with poison or with steel their wombs, rather than bear the discomforts attached to the privileges of maternity, rather than forego the gaieties of a winter's balls, parties and plays, or the pleasures of a summer's trips and amusements?

But abortion, besides being a direct crime against a positive law of God, is also an indirect crime against society. Admit its practice, and you throw open the way for a most unbridled licentiousness; you make a woman a mere instrument for beastly lust. Every woman is

somebody's mother or daughter, or sister or wife ; or she bears all these relations at once. Whatever protection, therefore, we would claim for a woman because she stands in any of these relations to us, we should also extend to all women, because they bear some one of all these relations to others. Most assuredly, then, we should remove none of the safeguards that protect female virtue. But, if we take away the responsibility of maternity, we destroy one of its strongest bulwarks. It affords me pleasure to learn that the American Medical Association has turned its attention to the prevention of criminal abortion, a sin so directly opposed to the first laws of nature, and to the designs of God, our Creator, that it cannot fail to draw down a curse upon the land where it is generally practised."

CHAPTER IV.

CRIMINAL ABORTION.

THE last of the three classes of abortion, namely, criminal abortion, is one which must be of great interest to lawyers, doctors and sociologists, especially at the present time, when the crime is so much on the increase.

The Criminal Statistics for 1928, issued by H.M. Stationery Office, show that there is a sharp rise in the offence of procuring criminal abortion. The cases known to the police were 113, and of these 74 were brought to trial, with 57 convictions. From 1910 to 1914 the average number of cases tried was only 40. This belief in the increased prevalence of illegal operations is supported by the expressed views of coroners, police commissioners and others most capable of judging.

Dr. Marie Stopes says she has had over 10,000 people who have written to her asking her to perform abortion and inquiring what her fee was. She believes the practice is going on to a staggering extent throughout the country. In India, according to Dr. Waddell, it is very frequent, but only the fatal cases come to Court and convictions are quite rare. It is most common among the unfortunate class of young Hindu widows, for whom re-marriage and social rights are denied by their religion.

The many discussions which have been held at the various medical societies also support the contention that the crime is on the increase. At a recent meeting of the Medico-Legal Society and the Society of Medical Officers of Health, it was generally agreed that the view expressed above was correct.

At a Conference of Bavarian Medical Men held at Augsburg, a paper on the subject was read by Dr. Noeber. He stated that the birth-rate had decreased from 26·7 per 1,000 in 1903 to 20·4 in 1924. While the decline might be partly due to venereal disease and

contraceptive practices he attributed a large portion to abortion. Dr. Hirsch, of Berlin, said that the relation between miscarriages and normal births was 93 to 100. Other speakers brought out the information that in Germany there were 1,000,000 abortions per annum with 6,000 deaths.

In Bavaria the increase is enormous. The convictions for criminal abortion were: In 1916, 72; in 1918, 138; in 1920, 293; in 1922, 660; in 1924, 690. This is an increase of over 900 per cent. in eight years.

In a recent case a doctor was sentenced to ten years penal servitude for manslaughter, for the death of a woman on whom he had illegally operated; she had died in his surgery during the procedure; he had carried out her body and deposited it under a railway arch; suspicion of the doctor was aroused and when the police searched his house there were found in his possession 116 letters from women on the subject of abortion.

To show to what a fine art the practice has reached in Paris, the following may be quoted. A girl, Inda Kriginold, and her lover, both Russians and students of medicine, were arrested by the police. They had a well-equipped consulting room, most comfortably furnished and fitted with all the necessary apparatus for preserving strict asepsis. They had been procuring abortion for many years and were responsible for over 1,000 cases.

Another indication of the lax views which are obtaining on this subject is given by the trend of recent legislation. In many countries bills have been introduced with the object of permitting the operation for those who do not wish to have children.

The new Government of Russia has legalized abortion, and makes no difference between children born in or out of wedlock. Any abortion up to three months of pregnancy, sanctioned by a medical commission and performed in a public hospital by a doctor, is no longer a crime. The result of this is that the hospitals are overcrowded, and so great is the number of women applying for admission that private sanatoria have to be used. The only satisfactory point, if any point can possibly be regarded as satisfactory in such a state of affairs, is that the operation which used to be undertaken by quacks is now performed under proper and hygienic conditions,

and septic complications are rare. The example set by this country, which at the present time can scarcely be regarded as a civilized nation, is not one which it is likely that any others will follow.

Dr. Karlin, of Leningrad, has recently made an illuminating report on the conditions as regards this matter. He states that in the larger cities, where abortion is now performed in hospitals exclusively, deaths are no longer recorded, and pathological sequelæ have been reduced to a small number. In the country, however, where women, owing to the great distance from an authorized hospital, continue to apply to a professional abortionist, deaths and disease are still common. Since December, 1928, a second abortion has not been allowed till nine months after the first abortion. The method used is curettage followed by irrigation. Perforation has become unusual, and if it happens its danger is much reduced, because laparotomy can be carried out at once and the woman, being already in the hospital, is not endangered by transport. Poverty is not the only motive for women desiring to abort; there are other reasons, such as the wish to be socially independent, or to give the children better education. Some are afraid of parturition or of the strain of bringing up children. A few only desire the operation because they are ashamed of being pregnant without being married. Although the immediate danger to life and health has become comparatively small, Karlin is of opinion that the indiscriminate production of miscarriage must be combated, because of its later sequelæ. Among these are a prolongation of the first and second stages of labour in later deliveries, defects of the placenta, and deficient involution of the uterus. Amenorrhœa and neuroses are especially frequent in women who have undergone artificial abortion without a previous normal birth.

The following, from recent articles in the *Medizinische Welt*, is of interest. In Russia, even before the revolution of 1917, abortions were frequent, but after it they became so numerous and were so often followed by serious illness or death, owing to the conditions of secrecy surrounding the practice, that in 1920 the interruption of pregnancy, apart from medical reasons, was authorized with certain safeguards. It is still criminal for any one but a doctor

to carry out the operation, and in 1926, 66 men and 805 women were convicted for this offence. The woman who desires this operation on other than medical grounds appears before a board, which decides in the first place if there is any contra-indication ; if none, her request may be approved if she is unmarried and workless, unmarried with one or two children, married with more than three children, or an insured woman who is suckling a baby. Other points, such as poor constitution, no private residence, or a husband on military service, may be taken into consideration. Abortions are now tabulated like births. In Leningrad, during 1929, the births numbered 39,058 and the abortions 53,512.

A friend who has recently returned from Russia tells me that during a visit to the largest hospital in Moscow, he discussed the question of abortion with one of the medical officers and was told that as Russia now requires children, the procuring of abortion was discouraged as far as possible, although there has been no alteration in the law.

In Germany it is estimated that from 500,000 to 1,000,000 abortions are performed each year ; in that country the performance of the operation is illegal as it is in England, yet only from 1,000 to 2,000 offenders are proceeded against, i.e., about one prosecution for every 400 to 500 abortions. In England the percentage of prosecutions is even less, only one in 1,000. Under the present German law interruption of pregnancy is always a crime, no exception being made in cases of operations performed by medical men to preserve the life or health of the mother. But prosecution of doctors is rare, though it does occasionally take place. The High Court of Leipzig has recently, however, given a judgment which is a protection to medical men. The Court stated that the performance of abortion by a doctor may be technically a crime, but that there is no criminal offence unless there is criminal intention. The life of the mother must be valued as higher than the life of the unborn child, and if abortion is the only means of saving the life of the mother, it is not to be considered criminal.

For many years there has been a movement in public opinion in Germany to permit abortion by medical men

when the financial or social condition of the woman about to have a baby makes it practically impossible to bring up the child properly. The Berlin Medical Chamber discussed the matter recently and there were many divergent views expressed. The communist members proposed a resolution that medical men should be allowed to perform abortion for social reasons, and that the endeavour to prevent conception should be encouraged rather than discouraged. After a long debate this was negatived.

It was stated in the discussion that the number of normal births and abortions was about equal, and that 50 per cent. of the latter are criminal. There are differences in various classes and places; according to the report of a great Berlin sick club there were 750 abortions against 150 normal births among its members. The criminal abortions are largely explained by the shortage of dwellings and the difficulty of bringing up families on very small means. The prejudice against unmarried mothers, leading to their dismissal both by the State and private employers, also encourages abortion on a large scale.

A Bill is now under consideration in which is a clause stating that artificial abortion is not criminal when performed by a qualified medical man who considers that no other course can save the life or health of the mother.

In France, although by the Code the procuring of abortion is illegal and punishable by long terms of imprisonment, the law is less stringently applied than in England. The following instance, however, exemplifies the very great danger medical men in that country run, even when, in the opinion of many best able to judge, the circumstances were not all against the accused.

The case was tried at the Paris Assizes in 1897. The defendants were Dr. Boisleux, well known for his work on gynæcology, and Dr. de la Jarridge, who was accused of being an accessory.

On November 21, 1896, Dr. de la Jarridge was consulted by a young woman named T——, an employee of M. Redfern, the costumier. She was brought by her lover, a man well known in sporting circles and a friend of Dr. de la Jarridge. Miss T—— complained of abdominal

pains, but did not reveal the fact that she was pregnant. Dr. de la Jarridge sent her on to see Dr. Boisleux. She next went to a midwife, to whom she made overtures to procure abortion, but the midwife refused. Then she returned to Dr. Boisleux, who proposed curetting the uterus, which was done at his private house in the presence of Dr. de la Jarridge and the lover. The curette brought away some placental fragments, and in endeavouring to remove all Dr. Boisleux perforated the uterus, pulled a knuckle of the intestine into the perforation, and the head of the fœtus escaped into the peritoneal cavity. He then proposed a laparotomy, but the lover refused permission for this. During the night symptoms of peritonitis set in, and at five in the morning Dr. Boisleux performed abdominal section and removed the uterus, but the patient died soon after. The Medical Inspector of Deaths refused the order for burial and regarded the death as a non-natural one. The two doctors and the lover were then summoned before the Commissioner of Police. The lover at once shot himself in the head. The two medical men attributed the death after the operation to peritonitis or embolism. An autopsy was ordered and made by Professor Brouardel, who sent in a report, whereupon both medical men were arrested. Investigations were made at the "clinic" of Dr. Boisleux, which was found to be very badly arranged and dirty, and from the books which were seized it appeared that in six years he had had twenty-six deaths from operations. The two medical men declared they were the victims of a mistake and were deceived by the patient as to her state of pregnancy.

The trial aroused very great public interest and was the subject of much controversy. There did not appear to be convincing proof that abortion had been procured, in fact the only evidence was that of the midwife, who said that Miss T—— had come to her for that purpose, saying that medical men had told her she was pregnant. The opinion of many was that had Dr. Boisleux been anxious to procure abortion he would not have chosen such a method as curetting, and would not have operated in the presence of five witnesses, among whom were a servant and a cabman. (This seems to have been a very remarkable thing to do, even though it was thirty-three

years ago and in France.) The Court went into the question of all the deaths which had occurred after operation in the practice of Dr. Boisleux during the previous five years, although there was no question of abortion in any one of them. A number of witnesses who had been cured by him gave evidence in support of his skill, and everyone looked for an acquittal on the charge of abortion, although it was thought that a conviction for involuntary homicide might have been secured. The jury, however, found the two prisoners guilty of having procured abortion and, although they recognized extenuating circumstances, the prisoners were condemned to five years imprisonment. While sentence was being pronounced, Dr. de la Jarridge was seized with a bad attack of angina, and for the space of an hour his life was in danger. The spectators in court loudly protested against the verdict and hissed the jury. The Court of Cassation rejected the appeal of the prisoners, a decision which greatly astonished the medical profession in Paris. Dr. Boisleux went out of his mind very soon after the trial and was transferred from prison to an asylum.

In Spain, Germany, Austria, Hungary, Italy, Norway, Sweden, and Denmark, abortion is punished with imprisonment of from six months to twenty years; in Canada the punishment is imprisonment for life; in India long terms of imprisonment and transportation; in Australia and New Zealand it varies between two years imprisonment and penal servitude for life. In the United States it is punished with fines or imprisonment for long terms, or both, though in most of the constituent States it is no crime if the woman procures her own abortion; nor is it a crime on the woman's part if she allows another to do it for her. She is looked npon rather as a victim than a criminal. In some States it is no crime unless the woman has quickened. In all the statutes in this country which deal with abortion, there is an explicit exemption for cases where premature delivery is employed to save the mother's life. This statutory protection has had a curious effect, for the majority of the courts hold that the onus of proving the absence of some medical necessity for the operation is on the prosecution. This renders the law almost a dead letter.

CHAPTER V.

METHODS OF PROCURING CRIMINAL ABORTION. GENERAL VIOLENCE.

THE methods used to procure criminal abortion may be divided into three classes:—

(*a*) Violence applied generally.
(*b*) The administration of drugs.
(*c*) Mechanical injuries to the uterus and its contents.

(*a*) VIOLENCE GENERALLY APPLIED.

This includes such procedure as rolling down hill or down stairs; jumping out of window; kneading, trampling on, or kicking the abdomen; compressing the abdomen with very tight fitting corsets; violent shaking of the body by driving or riding over rough roads; excessive exercise, such as very fatiguing walks, hard horse riding or prolonged dancing, golf, tennis and other games played vigorously; and the use of very hot or cold baths alternately.

None of these methods, even the very dangerous ones, can be relied on, and those to which no danger attaches are as a rule quite inefficacious and useless. Cases have occurred over and over again where women, in whom the uterus and its contents are quite healthy, have been subjected to great violence and abortion has not taken place, and there are others in whom the slightest violence has been followed by the expulsion of the uterine contents. The result is determined, not by the force applied, but by the condition of the womb and the fœtus. Therefore violence generally applied cannot be considered as a certain, or even as a likely, method of producing abortion, and it is, at the same time, very dangerous.

Illustrative Cases.

A woman pregnant seven months was trapped in her room when it caught fire. She tried to slide down from the third floor, but lost her hold and fell upon the stones beneath. She broke her forearm, but did not abort.

A young midwife with a narrow pelvis was pregnant. She was anxious to avoid Cæsarean section so threw herself from a height. As a result she died, but without any expulsion of the contents of the uterus.

A man at Stafford was in 1811 executed for the murder of his wife. She was pregnant and he had attempted to procure abortion in the most violent manner. He elbowed her in bed, rolled over her, and used a good deal of violence to her. She aborted, and death ensued.

In another case at Dohad, screams were heard to proceed from a house. The police found they proceeded from a woman who had aborted. She told the following story. She had been forced against her will to take medicine by the man in whose house she was found. After swallowing it she suffered from vomiting and two hours later had abdominal pain. When this became severe, the man who gave her the medicine seized hold of her hands and feet and his wife pressed on her abdomen, with the result that abortion took place.

In the Assize Court of the Loire Inférieure there was tried a peasant who had seduced his servant and wished to prevent her having a natural pregnancy. He mounted a strong horse and took the girl with him. They galloped about, and twice he threw her to the ground whilst this was taking place. This was not successful in producing abortion, so he applied to her abdomen hot bread just taken from the oven. This also failed, and the girl eventually gave birth to a child at the natural time.

A young woman seven months pregnant used savin and other drugs to end her pregnancy. They had no result. She tried binding a strong leather strap round her body. This did nothing for her, so her lover knelt upon her and compressed her abdomen with all his strength. The desired result was not secured. He next trampled on her whilst she lay on her back. This too, failed. He then took a pair of sharp pointed scissors and pushed these up the vagina. There was a good deal

of pain and hæmorrhage, but the health of the girl did not suffer at all and she had her baby at the proper time.

Rarely, great violence to the organs of reproduction themselves has been resorted to to induce abortion. A husband whose wife was seven months pregnant, inserted his hand into her vagina, tore a hole four inches long in the parts, and dragged out a portion of the womb, and most of the small intestines. The child was found between the woman's legs.

Tardieu records a case in which the vulva, perineum, vagina, uterus, urethra and rectum, had all been cut or dragged away from a young girl. A doctor and midwife were suspected. Tardieu, however, thought it was probable that the multilation had taken place after the death of the girl, though why anyone should wish to make this post-mortem mutilation it is difficult to understand.

In olden days venesection, frequently repeated, was used to induce abortion. It dates back to the time of Hippocrates, who advocated it for this purpose, but it has long ago fallen into disuse. It was quite inefficacious. Women have been bled frequently, even up to eighty times, and yet have not aborted. Dr. Rush in 1793, in an epidemic of yellow fever, for which he constantly resorted to bleeding, states that not one of his patients who was pregnant and for whom he used this treatment had a miscarriage.

Leeches applied to the anus and vulva were also tried for a like purpose, especially in France, and with, as would be expected, entirely negative results as far as the induction of abortion was concerned.

Most of the methods mentioned above are attended with great risk; none of them are to be relied upon to procure abortion; all of them are repulsive to any decent-minded woman.

CHAPTER VI.

METHODS (*continued*). DRUGS.

(*b*) THE ADMINISTRATION OF DRUGS.

THE number of drugs which have the reputation of being abortifacients and which have been made use of for this purpose, is enormous. They include emetics, purgatives, diuretics, metals and metallic salts, and vegetable and animal preparations of all kinds and descriptions. Very few, if any, of them are of any use for the purpose for which they are taken, and many of them are dangerous to the life of the patient when used in large enough quantities to have any prospect of setting up sufficient action of the uterus to produce abortion.

Emetics.—The action of these drugs is uncertain and rarely successful. Tartar emetic (antimonii tartaratum) is the drug of this nature usually resorted to. Considering that the vomiting of pregnancy, even when severe, rarely leads to miscarriage, it would scarcely be expected that artificial emesis would be of any use in inducing abortion, and such is the case.

Violent Purgatives.—This is another class of popular abortifacients and includes such remedies as aloes, gamboge, elaterium and croton oil. All of these have a special action on the lower bowel. They may occasionally bring on abortion in the later stages of pregnancy but their action is very uncertain and they can by no means be relied on to produce this effect.

Diuretics.—These are drugs which act on the kidneys and produce a free flow of urine. If they are sufficiently powerful to cause an actual irritation of the kidneys (for example, large doses of nitre), they may on rare occasions set up uterine action and induce miscarriage, but not without serious danger to the patient.

Metals and their Salts.—Among these are the sulphate

and the muriated tincture of iron, mercury and its salts (including calomel and corrosive sublimate), arsenic, salts of potash (iodide, nitrate, permanganate, acid chromate), borax, phosphorus, sulphate of copper, lead and its salts, salicylate of soda and manganese dioxide. All of these are used with little or no result, unless given in such doses as to produce poisonous effects. It is well known that most of these drugs are given by the best authorities during pregnancy without producing injurious results, and therefore cannot in any way be considered as abortifacients.

Illustrative Examples.—Taylor records a case in which a woman, aged 22, who was over five months pregnant, took arsenic. She had been advised to do this with the view of inducing a miscarriage. The dose was large, she suffered from vomiting and diarrhœa and died in seven hours without having aborted. On analysis of the contents of the stomach a large quantity of arsenic was found.

At the Lincoln Summer Assize, 1863 (Reg. *v.* Rumble) it was proved that large doses of muriated tincture of iron had been given daily to a pregnant woman for the purpose of inducing abortion. It did not have this effect but it made the woman seriously ill. The prisoner had also given the woman cantharides in pills. The defence was that these were proper remedies for the treatment of amenorrhœa, from which it was alleged the woman was suffering. The large doses given and the secrecy of the affair showed that they had been administered unlawfully and with criminal intent, and the druggist who supplied them, knowing the purpose for which they were intended, was convicted.

Tardieu narrates a case in which a herbalist gave a woman who was pregnant a mixture containing about 60 gr. of iodide of potash. She took half this and then aborted. It is very doubtful whether the drug had anything to do with the miscarriage, for it is frequently given to pregnant women suffering from syphilis, without any untoward result.

The following attempt to procure abortion by the administration of mercury is recorded by Sir Charles Gibb. In 1873, he was asked to see a girl, aged 20, who had been seduced and upon whom an attempt had been

made to procure abortion by the use of metallic mercury. When about three months pregnant, she was given by her seducer two and a half teaspoonfuls of this metal. No effect was produced on the contents of the uterus, but in a few days she had tremors, she stumbled about, and her gait was unsteady. Sir Charles did not see her till about three months after this. She was then six months pregnant, the symptoms mentioned were still present and the grasp of her right hand was poor. In another two weeks the tremor had extended to the other side of the body and the left hand had become weak. She gradually improved and later had a normal confinement.

Phosphorus.—There are many cases recorded where women have swallowed match-heads, which have resulted in death, but without any abortion having happened.

Lead.—Diachylon, which mainly consists of oleate of lead, is largely used for producing abortion. Dr. Branson, when relating the notes of a case, made the following statement. "There can be no doubt that diachylon is largely used by women of various classes to produce abortion. It is easily purchased. Any one can go to a chemist's and buy a pennyworth of diachylon, as I have myself done, without being asked any questions except as to whether the purchaser wants it spread or in the mass. Penny balls of the emplastrum plumbi are kept by the most respectable chemists ready wrapped in a handy drawer, and there is absolutely no restriction on its sale. For a penny a woman can buy enough lead not only to empty the uterus, but to cause grave disease of the bowels, the kidneys, and the brain. The drug appears to be an uncertain abortifacient always, and often destroys life, or leaves permanent bodily or mental enfeeblement."

The practice appears to have started in the Midlands. When the British Medical Association made its inquiry into the subject it was practically limited to that district. Since then it has spread considerably. Cases have occurred at Leicester, Nottingham, Birmingham, Derby, Sheffield, Leeds, Manchester, London, Bristol, Hull, Newcastle, Glasgow, Aberdeen, and Cardiff. It does not appear to be used abroad much but a few cases have occurred in Germany. An attempt was made after the British Medical Association inquiry to get diachylon

placed on the poison schedule. It was not till 1917 that this was done. Then "Lead in combination with oleic acid or other higher fatty acids, whether sold as diachylon or under any other designation (except machine-spread plasters)" was placed in Part I of the Poison Schedule.

Diachylon can now be sold only to a person known to the seller, or introduced by someone known to both seller and buyer. The buyer must also state over his signature the reason for which the drug is purchased.

Dr. Hall of Sheffield and Dr. Ransome of Nottingham made a very interesting investigation in 1906 into the employment of diachylon as an abortifacient. They noticed that for some few years preceding their inquiry there had been outbreaks of lead poisoning of varying severity in different localities, which could not be traced to the ordinary sources of plumbism, such as contaminated water or dangerous occupations. The cases were limited to women of child-bearing age, and eventually the source of the poisoning was traced to the custom of taking diachylon as an abortifacient. The first cases were noticed at Leicester. After that they spread very slowly, and five years later examples were noticed in Birmingham. In 1899, it had reached Nottingham where it had remained at least till the date of the investigation. At that time it certainly had not spread as far north as Sheffield, nor did it do so till some two or three years later, since when the number of cases had steadily increased. Inquiries made in all the neighbouring centres showed that it had reached various smaller or larger towns further north such as Barnsley, Doncaster and Leeds. There was no evidence of it having spread to other Yorkshire towns such as Bradford, Halifax, York, Hull or Huddersfield. There were no signs of cases to the east, but to the south a few were reported. The area to which the practice spread was thus bounded on the north by the upper part of South Yorkshire, on the south by Bedfordshire, and on each side by the width of the counties of Leicestershire, Warwickshire, Notts, and East Derbyshire. This area consists of a large number of manufacturing towns, each containing thousands of the working classes, together with a country between containing a large mining population.

Dr. Hall discusses the question, "How has the custom

spread?" "In order to ascertain the best method of doing this it is necessary to understand how this use of diachylon has come about, and I think that a study of its origin and spread points clearly to certain important indications for its prevention. The fact that starting at or about Leicester, it has taken twelve years to spread over an area of only comparatively small dimensions, namely, three or four counties, and that those counties are all adjacent to one another, suggests that it has been handed from person to person, rather than by wholesale advertising of any particular drugs in journals having a wide circulation. Even supposing that a few quack medicine dealers have spread it, their operations must have been restricted to a comparatively small area in consequence of their limited capital and enterprise. Whilst certain of the largely advertised patent remedies sold as 'female pills,' undoubtedly contain lead as one ingredient among others, no large proportion of the prevailing cases arises from their use; nor do I think that most of the 'female irregularity cures' contain lead at all. At this point it is desirable to ask, what is it that is being spread? For my part, I believe it is not any particular pill or medicine, either advertised or not, but rather the secret information that diachylon is a safe and sure abortifacient. This news is handed on from woman to woman by word of mouth, like any other of the 'household remedies' or 'cures' which every woman knows. It is true that here and there some more enterprising or less scrupulous person acquiring this information purchases the necessary quantities of diachylon and aloes and manufactures pills, with which an extensive trade is done in their neighbourhood, under the name of 'Nurse Somebody's Pills.' They may even go so far as to peddle the pills in the country districts around, but they are too poor and too frightened to advertise their products in the public press except on a very limited scale. Apart, however, from these local exacerbations, the general steady advance of this 'knowledge of evil' is, as I said before, from woman to woman. Hence its slow progress, for the women of this class do not travel farther than to and from the nearest market town or centre. The direction of spread along the northern path of thickly spread populations, subject to bad trade or overcrowding, rather than to the east or

west, or south, where the country is more sparsely inhabited, can be readily understood."

The chemists when their attention was called to this evil of which they appear to have been unaware, decided to help as far as they could, to suppress it. For instance, the Birkenhead and Wirral Association of Pharmacists passed a resolution on the dangers of diachylon, and recommended every member of their Association, in view of the fact that diachylon was being largely used as an abortifacient, to discourage its sale, unless they were satisfied it was required for a legitimate purpose.

It is undoubtedly a fact that as the result of the various investigations and resolutions and of the wide publicity given to these, and of the inclusion of lead in the poison schedule, the use of this very dangerous abortifacient is very much less than it was.

An interesting case of abortion by means of lead is that of Rex *v.* Seagrave (alias Wardle), tried at Nottingham in 1906, before Mr. Justice Walton. The attention of the medical profession in and around Nottingham had been directed for some time to the increasing use of diachylon as an abortifacient among the working classes. Special attention had been given to Bulwell, an outlying part of Nottingham, as the reports received from that place showed that the practice was very common there. Cases of lead poisoning exclusively confined to women of the child-bearing age were stated to be of continual occurrence in this suburb. It was found that abortifacient pills were being largely sold in the neighbourhood. The pills used in Bulwell were commonly known as "Mrs. Seagrave's Pills," and this woman, whose real name was Wardle, was said to do quite an extensive trade in them, selling them to both married and unmarried women. About ten recent cases were cited in which there was a definite history of lead poisoning and abortion, and the corporation authorities considered that an attempt should be made to obtain some of the pills for analysis, so that if possible legal proceedings might be taken against Mrs. Wardle. A box of pills was procured by an agent of the health department, and these were found on analysis to consist of diachylon and aloes with an outer coating of boric acid. They were roughly made and varied in size from 1½ to 5 grains. The case was now handed over to

the police, who arrested Mrs. Wardle and searched the house, where a large quantity of pills similar to those which had been analysed were found, and also the implements and materials used in making them. The prisoner was brought before the magistrate, and three witnesses were produced who had bought pills from her and had been seriously ill after taking them. Medical evidence was adduced to show that in each case these women had aborted and had suffered from lead poisoning. On the evidence given, the magistrates committed the prisoner to the assizes, the defence being reserved.

The case was heard at the Nottingham Assizes on July 17 and 18, 1906, the prisoner being indicted on four charges of supplying pills "containing a certain poison called lead with the intent to procure abortion." The prosecution called witnesses to prove the purchase of the pills from Mrs. Wardle and the ill-effects produced by taking them. The medical men who had attended these witnesses gave evidence that lead poisoning and abortion had occurred in each case. The City Analyst described the result of the analysis of the pills and the medical officer of health corroborated this and also spoke at length of the serious results that would follow the taking of such pills for any considerable period. The women who purchased pills all stated that Mrs. Wardle had instructed them to take a dose of Epsom salts, fasting, in the morning, followed by four of the pills, and four again at night.

For the defence it was stated that Mrs. Wardle made and sold the pills but had no idea that they were harmful, and that she had not sold them for the purpose of procuring abortion but only as "female pills" to be taken in cases of suppressed or irregular menstruation. In the witness-box, Mrs. Wardle said she had no knowledge of the specific action of diachylon or that it contained poison, and that she merely used it to make the pills hold together. She denied that she had knowingly sold the pills to pregnant women. Several witnesses both male and female came forward, and stated that they had taken the pills and derived benefit from them for such ailments as bad backs, internal pains, and anæmia. To rebut the last statement, the medical officer of health, with the consent of the Court, was again called, and stated that

anæmia was one of the earliest and most constant symptoms of lead poisoning, and it was inconceivable that when lead was given to an already anæmic patient it should fail to aggravate the complaint.

In his summing up, the learned judge expressed his opinion that there was no doubt that Mrs. Wardle had sold the pills and that they were noxious things, but the question for the jury to decide was whether they were sold with intent to procure abortion. He spoke strongly as to the growing prevalence of the trade in abortifacients and said that in the interests of public justice it should be severely dealt with. His lordship also remarked that it was very difficult to reconcile Mrs. Wardle's statement that she was not aware of the harmful effects of diachylon, with the fact that she had advised her clients in every instance to take a dose of Epsom salts. As Epsom salts were an acknowledged eliminant of lead, it seemed very strange that they should have been prescribed, unless it was known to the prisoner that diachylon contained lead.

The jury found the prisoner guilty, but recommended her to mercy. She was sentenced to eighteen months hard labour. At the same time, the learned judge stated that he wished it clearly understood that the law said that an offence of this kind was a felony, for which the maximum penalty was penal servitude for life.

The manner in which the police discovered the woman Wardle's criminal practices is interesting. The rules of the Central Midwives Board make it compulsory for midwives to call in a doctor in all cases of abortion. A note of this must be made in her record, a copy of which must be sent to the local supervising authority. The Medical Officer of Health, Dr. Boobyer, noticed the frequent occurrence of abortion, accompanied by symptoms of lead poisoning, and put the matter in the hands of the police. They were soon able to complete the chain of evidence and secure the conviction of the woman Wardle.

The following is a good instance of the terrible effect of taking lead as an abortifacient. It is by no means unique, and similar examples could be quoted indefinitely. An unmarried girl, aged 22, took one halfpennyworth of diachylon, because her period was a short time overdue. She was attacked with symptoms of lead encephalopathy,

and, after a long and serious illness, eventually recovered but with permanent blindness due to optic atrophy.

A woman, aged 27, married, was admitted to hospital in 1892. She died of lead poisoning, and an inquest was held. An aunt of the deceased gave evidence that some weeks before her death she had pointed out a chemist's shop and said, "That's where I get the stuff I take," and in answer to a further question as to what stuff she meant, replied, "Diachylon." Witness said, "I thought that was poison," and deceased answered, "Well, it does not poison me. I get twopennyworth and make it into pills, so I can swallow them." She also gave witness to understand that she took it with a view of producing abortion. Under the direction of the coroner, a verdict of *felo-de-se* by taking a drug for a felonious purpose was returned.

Dr. Pope, of Leicester, in discussing this case, raised the academic but very interesting question, as to how diachylon came to have the reputation it has for inducing abortion. He suggested that diachylon was a plaster as old as Galen's time, but it had not then its present simple constitution. It contained, in addition to litharge, marshmallow, linseed, and fenugreek, and may have had this composition till recent times. Hippocrates recommends lint seeds among other things as an emmenagogue, and Pliny says that fenugreek is an ecbolic. Old superstitions die hard. Is it possible that we are dealing with one dating from the time when diachylon contained these drugs and that it then had a reputation as an ecbolic, which has been transferred to its successor in the Pharmacopœia? There is another plaster mentioned by Paulus Aegineta similar to diachylon, containing marshmallow, linseed, fenugreek, and in addition rosin, tears of ivy, and turpentine, but no lead. Was this also known as diachylon, and used as an emmenagogue? It is at least a speculation.

In Rex *v.* Carfield, heard at the Quarter Sessions at Sheffield in October, 1906, the prisoner, a certified midwife, was indicted for supplying noxious pills containing lead. Counsel explained that the proceedings were instituted with the object of checking the supply of drugs of this kind which was far too common in Sheffield. Some difficulty had been experienced in procuring the necessary evidence, but the Medical Officer of Health

had got two women to go round and ascertain by asking various people for the pills for themselves, how far, and by whom they were being supplied. Witnesses deposed that they had purchased the pills from the accused. The City Analyst gave evidence that they contained lead, and Dr. Godfrey Crater spoke of the effect of such pills on pregnant women. He said diachylon was never used in legitimate medicine internally. The accused denied ever having sold the pills to the witness who had given evidence against her. The prisoner was found guilty and sentenced to twelve months' hard labour.

CHAPTER VII.

DRUGS (*continued*).

VEGETABLE and animal substances in endless profusion have been made use of at various times in order to induce abortion. They include drugs known as emmenagogues, i.e., drugs which promote the menstrual flow, and drugs known as ecbolics, i.e., drugs which cause the expulsion of the contents of the gravid uterus. Among this very large number are ergot, rue, savin, yew, tansy, penny-royal, pilocarpine, belladonna, digitalis, quinine, squills, sarsaparilla, white and black hellebore, laburnum, saffron, guaiacum, broom, fern, horehound, camomile, juniper, actæa racemosa, pituitary extract, lignum vitæ, balm, asarabacca, mugwort, bamboo leaves, milk hedge and other euphorbiaceous plants, plumbago, cotton-wood, carrot seeds, wormwood, senega, holly bitter (canella and aloes), caulophyllin, chiretta, sanguinaria, oleander, pine-apple, papaya seeds, hierapicra, pilacotin, grains of paradise (guinea pepper), nutmeg, cantharides, apiol, and oil of absinthe.

Many of these, in addition to lead already mentioned, are included in the schedule of poisons (ergot, savin, arsenic, tartar emetic, cantharides, and belladonna).

Of all these drugs, ergot is the only one which has any specific action on the uterus. Abortion may sometimes follow the use of any drug in the above list if they are given in such doses as to produce poisoning, or if the uterus is in an unhealthy condition and therefore more easily upset than it normally is. In this latter case, e.g., in syphilitic subjects, some trivial cause will bring on abortion, and such an ordinary drug as a simple purgative will be sufficient. Perfectly healthy women in whom the uterus is normal are not, except in quite exceptional circumstances, affected by any of the reputed abortifacients unless they are administered in dangerous

doses. Many of the above drugs have seriously impaired the health of the woman who has taken them, and even caused her death, and yet abortion has not followed. There is no drug which can be regarded as an abortifacient unless the woman is strongly predisposed to miscarry, or unless it is employed in sufficient doses to cause risk to health or life.

Ergot of rye (*Secale cornutum*), which, as has been said, is the only one of all these drugs which has any definite specific action on the uterus, is a diseased growth of the grain or seed of rye, due to a parasite (*Claviceps purpurea*). It is a drug contained in the British Pharmacopœia, in various forms, e.g., the extract (dose, 2 to 8 gr.) or the tincture (dose, 5 to 30 drops), and is used considerably by doctors for various purposes, mainly for the control of uterine conditions, especially hæmorrhage or subinvolution. It is of great value in stimulating the contractions of the uterus after the birth of the child, and thus preventing or arresting uterine bleeding.

A good deal of difference of opinion has taken place on the specific ecbolic qualities of ergot, and as in trials for abortion this important point may arise at any time, it is very necessary for the medical witness to be clear in his views. Dr. Lee, in papers published in the *Edinburgh Medical and Surgical Journal* and in the *Medical Gazette*, states that it has no effect in the early stages of pregnancy though given in large doses. Dr. Beatty, in the *Dublin Medical Journal*, gives it as his experience that when used in obstetric practice, it is liable to endanger the life of the child, and this is confirmed by Drs. McClintock and Hardy, who report that in thirty cases in which it was administered, 20 of the children were born dead. But against these observations the following authorities of later date give a totally contrary opinion. Dr. Uvedale West, in a paper read before the Obstetrical Society in 1861, stated that he had attended 734 labours, in 172 of which ergot was given. Including one case of twins, 173 children were born under the influence of ergot, and of these only 5 were stillborn. These observations were confirmed by M. Millet, who stated that he had never met with any case in which ergot had injured the child. Possibly these divergent views are due to differences in dosage, method of administration, mode of

preparation, the period of gestation, or the length of time for which it was given.

Atthill (*Dublin Journal of Medical Science*, 1888) says that he frequently gave ergot as a preventative of post-partum hæmorrhage, commencing a week or ten days before labour was expected, and on no occasion did it seem to hasten the event. Saxinger and many other obstetricians of repute hold the opinion that ergot given in non-poisonous doses does not produce abortion, unless there are predisposing conditions.

The following is an interesting quotation from "Christison's Poisons," published in 1832: "Spurred rye is now very generally believed to possess another singular quality, in consequence of which it has been lately introduced into the Materia Medica of this and other countries—a power of promoting the contraction of the gravid uterus. This property appears to have been long familiar to the quacks and midwives of Germany; and towards the close of last century it rendered the ergot so favourite a remedy with them that several of the German states prohibited them by severe laws from using it. It was first fairly brought under the notice of regular accoucheurs by the physicians of the United States between the years 1807 and 1814. There appears little reason for doubting that it possesses the power of increasing the contractions of the uterus when unnaturally languid; and consequently it has been employed, apparently with frequent good effect, to hasten languid normal labour, to promote the separation of the placenta and to quicken the contraction of the womb after labour. These facts, however, are mentioned chiefly as preparatory to the statement that it has been also supposed to possess the power of producing abortion, and is believed to have been actually employed for that purpose in some foreign countries. Accurate information is still wanted on this subject. No other poison seems likely to possess a peculiar property of the kind. Nevertheless it is the opinion of the best authorities that spurred rye has no such power except in connection with violent constitutional injury produced by a dangerous dose; and that it is endowed with the property only of accelerating natural labour, not of inducing it, particularly in the early months of pregnancy."

The general view now held is that ergot has very little effect in setting up abortion, unless in predisposed subjects. In the early stages of pregnancy (the time abortion is most often attempted) ergot does not induce miscarriage in healthy women. Even when abortion is threatened, the action of the drug does not necessarily increase the contractions of the uterus. In the late stages of pregnancy ergot will rarely initiate labour, though it probably will increase the contractions of the uterus, when once they have started.

The symptoms produced by an overdose of ergot are nausea, vomiting, great thirst, dryness of the throat, pain in the head and abdomen, aversion to food, slight purging, dilated pupils, dyspnœa, cramps, numbness and tingling in the fingers and toes, followed by extreme coldness, delirium, coma and convulsions. Subcutaneous and submucous hæmorrhages with blood in the vomit and motions follow. The treatment is to empty the stomach and intestines of the poison, unless this happens spontaneously. The patient must be kept warm and stimulants given. If death follows the post-mortem appearances are as below. A jaundiced condition with subcutaneous bleedings, hæmorrhage on the surface and into the substance of the viscera, and fatty degeneration of the liver and kidneys.

It is necessary to know the appearance and chemical reactions of the drug, as such knowledge may be required in investigating a case of alleged abortion caused by ergot in which the result has been fatal, for particles may be found in the stomach or intestines when the post-mortem is made. The grains are from about half an inch to one inch long and about one-eighth across. They are cylindrical, curved, and blunt at the ends. The outer coat is black or dark purple, irregularly fluted, sometimes cracked and fissured, and of a spongy nature inside. Powdered ergot has a faint fishy smell, which is more noticeable if the substance is rubbed with potash. The chemical tests are complicated and must be carried out by a skilled toxicologist.

Cases.

In the case of Reg. *v.* De Baddeley and wife (Central Criminal Court, July, 1871) the prisoners were indicted for unlawfully supplying a certain noxious drug, namely,

ergot of rye, knowing that it was intended to procure abortion. They lived at Kennington, and an advertisement was inserted in a certain spiritualist journal inviting people to consult at her house "Madame De Baddeley, the celebrated clairvoyante." Suspicion was aroused and the police sent a woman named Hansard to see the prisoners and to concoct a story which might elicit their spiritual mode of procedure. After being put into a state of so-called clairvoyance, the female prisoner advised the applicant what to do in a case of a young woman whom she had mentioned, and gave her a quantity of ergot of rye to produce abortion. The sum of £6 was paid to the prisoners. The drug was at once handed over to the police and the De Baddeley pair were found guilty and sentenced to twelve months imprisonment.

In Reg. *v.* Calder (Exeter Lent Assizes, 1844) it was alleged that ergot, savin, and cantharides had been given by the prisoner, a medical man, for the purpose of inducing abortion. The prosecutrix who was the chief witness was a woman of very bad character, and the prisoner was acquitted. There were three medical witnesses who agreed that savin and cantharides were only likely to occasion abortion indirectly, i.e., by more or less poisoning the patient, the view which is undoubtedly correct. But with regard to ergot there was a difference of opinion. Dr. Shapter said he did not think ergot would act unless the natural action of the uterus had already commenced, which is the view expressed above when the effect of ergot was discussed. Dr. Shapter subsequently slightly modified his views, stating that there were rare occasions in which ergot might actually start the contractions of the womb.

In October, 1864, a case occurred at Brighton in which a question was raised respecting the fatal effects of ergot on a woman who had taken it for a considerable time with the intention of inducing abortion. The case ended in death but abortion did not ensue. Was the cause of death ergot poisoning? She took a drachm of the tincture three times a day for nearly three months. At the autopsy, no cause for death could be found except irritant poisoning, evidenced by the inflamed state of the stomach.

Another case, reported by Richter, was that of a girl about six months pregnant who took 2 to 4 oz. of ergot.

She had symptoms of acute ergot poisoning, rapid pulse, thirst, abdominal pain, suppression of urine and great restlessness, and died from hæmorrhage half an hour after giving birth to a dead child. Many other similar instances have been recorded.

In 1882 Dr. Davidson, of Brighton, was called in to see a woman, aged 28, who had been a hospital nurse. She was pregnant and had been taking liquid extract of ergot for some months; abortion did not follow. She therefore swallowed two handfuls of powdered ergot without infusing it. When Dr. Davidson was called, she was thought to have burst a blood-vessel. In her room was a basin of reddish-brown matter, which she had brought up. She both vomited and passed blood. The next day she became jaundiced, her lips and tongue were swollen, there were subcutaneous hæmorrhages and intense thirst. The patient had periods of stupor and apathy, she vomited blood and her urine was blood-stained. Dr. Davidson insisted on calling in another doctor for his own protection. The patient became worse, and abortion threatened. It was decided to hasten the expulsion of the fœtus, but whilst attempting to carry this out the patient died. At the autopsy the liver, kidneys and lungs were found to be bloodless, and ruptured vessels were found in the stomach and intestines. The uterus contained a five-months fœtus.

A married woman, aged 30, missed a period and obtained from a chemist a 12-oz. bottle of medicine, which she was told contained ergot and would induce abortion. Directions were given to her to take a tablespoonful three times a day, and in addition some pills. She took the medicine for a week but the desired effect did not occur. She returned to the chemist who gave her another bottle which he told her was stronger, and which she finished in a week. Before this however she noticed that her arms ached, her skin became itchy, and the fingers swollen. Finally there occurred gangrene of several fingers which necessitated amputation. She did not abort as the result of the ergot poisoning.

Savin (*Juniperus sabina*) is a drug very rarely taken as a medicine at the present time, though it was formerly employed as an emmenagogue. The danger of poisoning prohibits its use when there are more efficient and safe

remedies to take its place. As an abortifacient it still enjoys a popular reputation in the form of a decoction or an infusion. It is an irritant poison causing diarrhœa, vomiting and abdominal pain, and although it may, on occasion, lead to abortion, it only does so if taken in doses which cause severe illness or even death to the patient. It has been removed from the British Pharmacopœia.

The case of the King *v.* Phillips, which was the first case tried under Lord Ellenborough's Act, i.e., the 1803 Act, which made the illegal procuring of abortion a statutory offence, was heard in 1811. This was an indictment for administering savin to a woman not quick with child for procuring abortion. The first count of the charge, which was drawn with the cumbersome verbiage then considered necessary, but now fortunately altered for the better by the Indictments Act, charged that the prisoner on the 10th day of January, 1811, and on divers other days and times between that day and the 20th of March in the year aforesaid, at the parish of St. Mary's, in the county of Monmouth, wilfully, maliciously, unlawfully and feloniously did administer to and cause to be administered to and taken by one Hannah Mary Goldsmith, single woman, divers large quantities, that is to say, six ounces of the decoction of a certain shrub called savin, then and there being a noxious and detructive thing, the said Hannah Mary Goldsmith on the said 10th day of January in the year aforesaid, and continually from then until the 20th day of March in the year aforesaid, at St. Mary's in the county of Monmouth aforesaid, being with child, but not quick with child, to wit, at the respective times of administering such divers large quantities of the decoction of the said shrub called savin as aforesaid, with intent thereby to cause and procure the miscarriage of the said Hannah Mary Goldsmith, against the form of the statute, etc."

It appeared that the prisoner prepared the medicine, which he gave to Miss Goldsmith by pouring boiling water on the leaves of a shrub ; the medical men examined stated that such a preparation was called an infusion, and not a decoction, which was made by boiling the leaves in water. The prisoner's counsel insisted that he was entitled to an acquittal on the ground that the medicine was misdescribed.

Lawrence, J. The objection will not hold. The infusion and decoction are *ejusdem generis*, and the variance is immaterial. The question is whether the prisoner administered any matter or thing to this woman with intent to procure abortion.

Witnesses were called for the prisoner to prove that the shrub he used was not savin. The counsel for the prosecution insisted that even in that case the prisoner might be found guilty upon the last count of the indictment, which charged him with administering a large quantity "of a certain mixture, to the jurors unknown, then and there being a noxious and destructive thing." The prisoner's counsel objected that unless the shrub was savin, there was no evidence that the mixture was noxious and destructive.

Lawrence, J. In an indictment on this clause of the statute it was improper to introduce these words, and although they are introduced there is no necessity to prove them. It is immaterial whether the shrub was savin or not, or whether or not it was capable of procuring abortion, or even whether the woman was actually with child. If the prisoner believed at the time that it would procure abortion, and administered it with that intent, the case is within the statute, and he is guilty of the offence laid to his charge. (The interpretation of the law in the case of Reg. *v.* Isaacs (1862) which was tried under the 1861 Act was contrary to this opinion. Here the Judge held that it was not sufficient that the defendant merely imagined that the thing administered would have the effect intended, but it must also appear that the substance administered was either a poison or a noxious thing. The same view was held in the case of R. *v.* Hollis.)

The prisoner urged that he had given the young woman an innocent draught for the purpose of amusing her, as she had threatened to destroy herself unless enabled to conceal her shame, and the jury returned a verdict of not guilty.

The prisoner had been previously tried on the first section of the statute on the capital charge of administering savin to Miss Goldsmith to procure abortion, she being quick with child. She was, as a matter of fact, four months pregnant. She swore, however, that she

had not felt the child move within her before taking the medicine and that she was not then quick with child. The medical men, in their evidence, differed as to the time when the fœtus may be stated to be quick, and to have a distinct existence, but they all agreed that in common understanding a woman is not considered to be quick with child till she has herself felt the child alive and quick within her, which happens with different women in different stages of pregnancy, although most usually about the sixteenth or eighteenth week after conception.

Lawrence, J., said that this was the interpretation which must be put upon the words "quick with child" in the statute, and as the woman in this case had not felt the child alive within her before taking the medicine he directed an acquittal. At the present time, with another Act in force, these words are of no importance, as no difference is made whether the woman is or is not quick with child.

Christison relates the following. A woman applied to a pedlar to supply her with a means of getting rid of her pregnancy, and under his direction she took a large quantity of a strong infusion of savin leaves on a Friday morning, and repeated the dose the next day. She was seized with symptoms of poisoning, including severe abdominal pain and strangury, and aborted on Sunday afternoon. On the following Thursday she died. At the necropsy the uterus was found in the condition of recent delivery, the mucous membrane of the stomach was red and inflamed and there was peritonitis. The contents of the stomach were of a greenish colour, due to the presence of a vegetable powder. He remarks that, in a charge of abortion, the mere possession of oil of savin would be a suspicious circumstance, because the idea that it is an abortifacient is very general and familiar to the vulgar, while it is scarcely used for anything else.

Savin was one of the drugs which was supposed to be used in the very memorable trial of Charles Angus for the murder of Margaret Burns in 1808. It excited an enormous amount of public interest at the time and a very great deal of controversy afterwards, especially as regards the medical evidence. Charles Angus was a retired merchant with children. Miss Burns had lived

at his home as housekeeper and governess. He was accused of having attempted to procure abortion, by means of an instrument, and also of having used certain drugs upon her which had led to her death by poison. It appeared in evidence that improper relations had been noticed between the two, and that Miss Burns had for some time been out of health. Her abdomen was much increased in size when she was attacked with the symptoms which preceded her death. The deceased was seen by the servants of the family at about 6 o'clock on Wednesday morning, March 23, 1808, at which time she was in her usual state of health, but replied to one of them who noticed that she had risen earlier than usual that she had been unable to sleep. She was next seen by the servants at a little before 9, sitting at breakfast with Mr. Angus, apparently very ill. After breakfast she lay on the sofa, complaining of pain in the abdomen, but she was not then sick. On moving about afterwards she held on to a chair as if from pain, and about one and a half hours after breakfast she ordered some water gruel, of which she drank nearly three quarts in the course of the day, being very thirsty and in considerable pain, and also very sick. The matter vomited was described by the housemaid as being at first very black, but later becoming green. Whilst being sick Miss Burns observed to the housemaid, "Oh! Betty, what bile comes off my stomach. I wish I had taken an emetic long since." On the servants going to bed that night Miss Burns seemed very poorly, but did not complain to them. On Thursday morning, at 6 o'clock, she was lying as she had been left the night before, on the sofa, with pillows under her head. She said she was tired of gruel and had some water posset and a little warm beer. She also complained that it hurt her very much to make water, but she was relieved by sitting on a sliced onion with some boiling water poured over it. Her vomit was now of a blacker colour, and she continued to be sick all day till towards the evening, when the sickness passed off and she seemed better. She could then move about again. On Friday morning, at 4 o'clock, the housemaid went into the room and thought her much worse, as she seemed in distress as to her breathing. She was seen again at 6 in much the same state. She then asked for some warm beer, which

she kept down, and she also took about a pint of gruel and said she felt much better. Her vomiting had ceased, but was succeeded by a "lax" (probably lassitude is meant), which continued all the morning. A little before 10 the housemaid was sent out for some Madeira, Miss Burns having expressed a wish for it. Between the hours of 10 and 11 the kitchen maid was in the room and received orders about dinner: Miss Burns said she would have some barley water. On the return of the housemaid about 11 she went straight into the parlour, where Miss Burns was found lying in the corner by the door, with her face against the wall, in the housemaid's words, "cowered of a lump," her elbows upon her knees and one foot "crudled" under her: Mr. Angus, who had nursed her throughout, was sitting in an armchair so sound asleep that he could be roused only with difficulty. During the whole course of her illness Miss Burns did not go to bed, but remained in the parlour, generally lying on the sofa. She refused to have a doctor: but Mr. Angus said he had given her seven drops of laudanum on one night and ten on another, and that on the morning of her death, which took place that day, he had given her some castor oil in spirit, but that it had come up immediately.

On Sunday, March 27, 1808, Dr. Rutter was asked by the Coroner for Liverpool to take with him an experienced surgeon to the house of Mr. Charles Angus and there to examine the body of a young lady who had died suddenly.

The examination was made at 2 o'clock the same day, by Mr. Hay, a Liverpool surgeon, with his apprentice, in company with Dr. Rutter and Dr. Gerard. Their report on the case was so interesting that I quote it more or less in full. "On our arrival at the house we were introduced into a parlour where we found Mr. Angus with some other persons, to us unknown, and we delivered to him the note from the Coroner as the authority under which we acted. Upon perusing it, he expressed perfect willingness that the examination should be made. We were then introduced into the room upstairs where the body of the deceased was laid. After having removed the body a small stain of blood was observed on the sheet of the bed on which it had laid, and the pillow was stained by a fluid which had issued from the head. The body being

laid on a table a large quantity of a thin yellowish fluid poured out from the nostrils and was collected in vessels. No marks of external violence were discovered on the body, nor was there any appearance of commencing putrefaction. The nails of the fingers were of a bluish colour and the veins on the external surface of the abdomen or belly appeared to be much enlarged. At this period we were joined by Mr. Christain, surgeon. On opening the abdomen a considerable quantity of fluid was found to have been effused into that cavity, similar in colour and smell to that which issued from the nostrils, but more turbid. Marks of inflammation were found on the external or peritoneal coats of different portions of the small intestines, but the large intestines were free from it. The external coat of a part of the smaller curvature of the stomach was also inflamed, and a similar appearance of inflammation was observed on a small portion of the anterior edge of the liver, directly over the smaller curvature of the stomach. On raising up the stomach an opening through its coats was found in the anterior and inferior parts of its great curvature, and from this opening a considerable quantity of a thick fluid of a dark olive colour issued, of which fluid some ounces were collected and preserved. The natural structure of the coats of the stomach for a considerable space round the opening was destroyed, and they were so soft, pulpy and tender, that they tore with the slightest touch. Around this part of the coats of the stomach there were no traces of inflammation whatever. The stomach was then taken out of the body, and its surface was carefully washed, and the contents washed out were preserved. On examining the womb it was found to be very considerably enlarged, and on its inner surface the part to which the placenta or after-birth had adhered was very plainly discernible. This part was nearly circular and occupied a space of about 4 in. in diameter. The mouth of the womb was greatly dilated. In a word, the appearances of the womb were such as might have been expected a few hours after the birth of a nearly fully grown child."

An analysis failed to discover any poison in the contents of the stomach. It must be remembered that in 1808 the science of toxicology was not in anything like the advanced state that it is at the present time.

Evidence was given at the trial that on searching the bedroom of the prisoner three bottles were found in the wardrobe, one marked poison water, a second Jacob's water, and a third savin oil. It was also given in evidence that a considerable number of large globules of a dark coloured, dense oily fluid were present, but that there was no particular smell attached to this fluid. Even at the present time there is no really definite test for savin oil.

The medical defence conducted by Dr. Carson was, as is unfortunately too often the case at the present day, rather more like that of a special pleader than of a scientific expert. He raised the following questions: (*a*) the appearance of the stomach upon dissection could be explained on the grounds that they were due to post-mortem changes; (*b*) the symptoms which preceded death were not those of a corrosive poisoning (savin, by the way is an irritant, not a corrosive poison); (*c*) no poisonous substance was found in the body; (*d*) the appearance of the uterus did not justify the conclusion that delivery had recently taken place; (*e*) the appearance could be reconciled with the view that a recent expulsion of hydatids had taken place.

The verdict of the jury was "Not guilty." It was a very wise saying of a celebrated judge that a verdict of not guilty was not a certificate of innocence.

Sometimes the oil of savin is used in place of the infusion or decoction. This is obtained by the distillation of the tops of the plant. If an analysis of the contents of stomach is made for the purpose of detecting this substance, the simplest test is as follows: The suspected fluid is shaken with ether, and the ether subsequently removed by distillation, leaving the savin oil, which has a more or less characteristic odour, and when mixed with alcohol, becomes turbid. If mixed with an equal amount of sulphuric acid, it turns brown, and when this mixture is added to distilled water a dense white precipitate is formed. But the chemical tests are not very satisfactory.

The oil was alleged to have been used to procure abortion in Reg. *v.* Pascoe (Cornwall Lent Assizes, 1852). Here a medical man was convicted and sentenced to transportation for administering oil of savin to a woman with intent to procure abortion. The prisoner gave the

woman fourteen drops of the oil daily. This is the dose which was considered correct when the drug was used medicinally. But as it was agreed that this medicine should not be prescribed for a pregnant woman, and as he knew the patient was in this condition, the jury convicted him of giving the drug with intent to procure abortion.

Dr. Tidy relates the case of a young woman, eight months pregnant, who secretly took savin to procure a miscarriage. She died with symptoms of poisoning, and the contents of the stomach showed the presence of the drug. Although she was eight months pregnant, and took enough of the drug to kill her, she did not abort.

In another example, a pregnant woman took savin, and eight hours later was found insensible, and breathing stertorously. She had suddenly been seized with vomiting and this continued. Labour came on and she died four hours after. At the autopsy, 4 oz. of an acid liquid of a brownish green colour were found in the stomach, and this on distillation yielded an opaque liquid from which a few drops of yellow oil were separated by means of ether. Some sediment found in a bottle showed under the microscope the characteristics of powdered savin. There was no doubt that this was the cause of death.

A further fatal instance is recorded by Taylor. The deceased, who was a perfectly healthy woman, was about seven months pregnant. She was quite well on Friday, but on Saturday was attacked with vomiting. There was nothing, she stated, which she knew was likely to produce this sickness. It continued throughout Sunday, and was of a green colour. She sent for a doctor on Sunday evening. He found symptoms of gastro-enteritis, with a rapid pulse, and great anxiety. Labour came on a few days later. The child was born alive but soon died, and the mother only survived twenty-four hours, dying five days after having taken the poison. The post-mortem showed signs of inflammation of the stomach and intestine, and on examination of the contents of the former viscus, which contained about 8 oz. of a thick green fluid, finely divided savin leaves were found. The odour was also characteristic. The amount taken was obviously very considerable.

Pennyroyal (*Mentha pulegium*), one of the varieties of mint, is very little used in legitimate medicine. It was

once included in the British Pharmacopœia, but is now omitted as of no value. It is still regarded by the ignorant as an abortifacient, either as the spirit of pennyroyal (the essential oil dissolved in spirit) or as pennyroyal tea (a decoction of the leaves). It is also a constituent of many medicines sold for inducing abortion. An American variety (*Hedeoma*) is employed for the same purpose. Both are quite inert as abortifacients.

Wingate relates the case of a pregnant woman who took a teaspoonful of oil of pennyroyal as an ecbolic. She became comatose, with cold limbs and small pulse. Vomiting and delirium with attacks of opisthotonos occurred. She recovered from the symptoms of poisoning without abortion having taken place.

At the Chelmsford Assizes, August 1820, Robin Collins was indicted for administering steel filings and pennyroyal water to a woman with intent to procure abortion. Mr. Baron Wood told the jury, in point of law, that if they were satisfied that the prisoner had administered the drugs with intent to procure miscarriage, though they were incapable of producing this effect, and though the young woman had willingly consented to take them, the case was within the statute, and they were bound to find the prisoner guilty. (This view, as stated in the account of the King *v.* Phillips, is not the view of modern judges under the Act of 1861.) The jury at once found him so, and he was sentenced to fourteen years transportation. The learned judge expressed himself as perfectly satisfied with the verdict, and gave him the above heavy sentence as a warning to others who were carrying out the same practice, which was unhappily only too prevalent.

An important case in which pennyroyal was the drug employed is that of Reg. *v.* Wallis (Winchester Autumn Assizes, 1871). A solicitor was charged with administering or causing to be administered to a woman who was pregnant, certain noxious drugs, namely an infusion of pennyroyal, and some "Griffith's Mixture" in order to procure abortion. It was proved in evidence that the prisoner had bought the drugs at a chemist's and had handed them to the woman. She had a miscarriage, but the body of the child could not be found. The woman was six months pregnant and there was nothing to show that she had had any instrument used on her and there

had been no symptoms of irritant poisoning. It was alleged in defence that she had had an accident whilst riding, and that this might account for the miscarriage. It was shown that the prisoner had procured some pennyroyal leaves, and also a bottle of iron and myrrh (Griffith's mixture), had given a false reason why he wanted them, and had handed them to the woman. Medical witnesses for the Crown said that these substances would procure abortion, others for the defence said they would not. The prisoner was acquitted.

The evidence given by the doctors is most interesting. Griffith's Mixture is an ordinary iron tonic, and there has never been a case in which abortion has been produced by it. Counsel for the prosecution stated that this mixture was "clearly abortive in character," but the medical evidence in support of this statement broke down in cross-examination. Three well-known medical men for the defence said (and this is undoubtedly the view held at the present time) that the amount of the iron tonic taken by the woman could have had no effect in producing abortion. They also said that pennyroyal, though used by the ignorant to induce miscarriage, was not in any way calculated to have this effect. This is the view of medico-legal experts to-day.

Rue (*Ruta graveolens*) is a popular drug though it has no abortifacient properties. Taken in large doses it produces salivation, swelling of the tongue, gastritis and general weakness. It is not now contained in the Pharmacopœia.

Quinine.—This is very largely used in medicine for many purposes, especially as a prophylactic and remedy for malaria, when it is given in large doses, and as a tonic when given in small doses. It has often been made use of with the idea of expelling the uterine contents. Many cases are recorded in which quinine was given to pregnant women, and in whom abortion did not follow.

In 1918 a herbalist was tried at Bristol charged with procuring abortion by means of quinine. He sold large quantities of pills to female patients. The pills were of two kinds, the light ones each containing a little over a grain of quinine, the dark ones cascara. They were directed to take ten to fifteen of the light pills, i.e., 12 to

18 gr. of quinine, together with a dark pill which was a simple aperient. The jury were asked to decide : (*a*) Was quinine in ordinary doses a noxious drug ? Answer : No. (*b*) Was it in large doses a noxious drug? Answer: Yes. (*c*) Was the drug administered by the accused with the intent to procure abortion ? Answer : Yes. He was convicted and sent to twelve months' hard labour.

A woman who had had several children, and was aged 30, became pregnant. At six weeks she was advised to take quinine and 25 gr. were given her. Four hours later she vomited, became giddy and deaf and severe labour pains set in. She aborted six hours after taking the quinine. She had been told she was to take a further dose of 25 gr. if the first dose did not have the desired effect.

The following case shows the most recent method of using this drug for the purpose of producing abortion. A medical man was asked by a woman to terminate her pregnancy. Before doing so he gave her these directions. She was to write him a letter asking him to inject her varicose veins, and at the same time to buy a bottle of quinine tablets, half of which she was to throw away, so that it might appear she had been dosing herself with the drug. These precautions were taken by him so that in the event of death, and quinine being discovered in the body, a feasible explanation of its presence might be given. He then injected 10 grains of quinine into a vein and abortion followed.

A well-known London surgeon tells me he was recently asked by another medical man to inject the varicose veins of his wife with quinine, in order that her pregnancy might be terminated. He naturally refused. He invariably avoids quinine in the injection treatment of veins if the woman is pregnant, and this is the practice of other surgeons.

Tansy (*Tanacetum vulgare*) has a reputation as an ecbolic, and is frequently used for its supposed action, especially in America. It is generally taken in the form of a hot infusion, or as the oil of tansy. It has no medicinal action whatever, but taken in poisonous doses it produces convulsions, cyanosis, collapse and even death. The cases quoted below show that even with doses sufficiently large to produce poisonous symptoms, no action on the contents of the uterus took place.

A woman, a few weeks pregnant, took ½ oz. of oil of tansy. She died shortly afterwards without aborting. A healthy-looking girl, aged 21, took about 1½ oz. of oil of tansy. She had convulsions and became comatose, dying about three hours later. The uterus contained a fœtus of four and a half months. No abortion had taken place.

The oil can be recognized either before or after the distillation of the contents of the stomach, by its very peculiar and penetrating odour.

In August 1931, at Hove, a girl, aged 15, was given some liquid to drink by a man who had seduced her. He thought she was pregnant and was advised by a friend to give her oil of tansy. This he procured from a "diet specialist" in a one-ounce bottle without any directions on it. The girl drank about half an ounce, and was taken seriously ill with symptoms of irritant poisoning, including the vomiting of blood, from which she soon recovered. She did not abort, although she was pregnant.

Absinthe.—In the *British Medical Journal* (1902) there appears an account of a case in which absinthe was used as an abortifacient. The wife of a farm labourer near Runcorn took rather less than 2 drachms of oil of absinthe with the object of procuring abortion. She died in less than an hour. The chemist from whom she had obtained the absinthe stated that it was not a scheduled poison, that the dose was two or three drops, but that no label had been put on the bottle indicating the amount to be taken. The jury returned a verdict that death was due to absinthe poisoning taken to procure abortion and that the drug should in their opinion be scheduled. The County Analyst in his evidence stated that he believed the drug was quite commonly used with the idea that it would act as an abortifacient.

Digitalis.—This has occasionally been resorted to as an ecbolic. Dr. Campbell relates an instance in which it was given for dropsy and abortion resulted, but here the condition of the patient was so abnormal that the result cannot in any way be attributed to the drug.

Cantharides, or Spanish fly, is a dried beetle (*Cantharis vesicatoria*) and is used in medicine as an external application to produce blistering. If taken internally, it

causes burning and blistering of the parts with which it comes in contact, nausea and vomiting, and intense irritation of the bladder, with blood in the urine and irritation of the rectum; convulsions with coma may follow. The action of the drug when given internally is so dangerous that it is not so employed in legitimate medicine. It has been used for inducing abortion, but can only do so as the result of the poisoning it sets up.

Saffron (*Crocus sativus*) is a pharmacopœial drug used solely as a colouring agent, having no medicinal properties whatever, yet is one of the long list of reputed abortifacients. A case occurred in 1834, Rex *v.* Coe, in which the prisoner was alleged to have used saffron for this purpose. Prisoner's counsel raised the point that the substance was quite innocuous. The judge interposed "Does that signify? It is the intention with which the jury have to do; if the prisoner administered a bit of bread with the intent to procure abortion, it is sufficient." (This case was tried under the Act of George IV.)

Asarabacca (*Asarum europæum*) was at one time used in medicine. It is an irritant, producing vomiting, diarrhœa, and griping pains in the abdomen. It has no action on the uterus, but has been employed as a reputed ecbolic. A woman, four months pregnant, took a decoction of asarum to produce abortion. Pains in the abdomen, followed by convulsions, were the result, and death ensued in two days.

Fern Root.—In 1858, a man named Morris was tried at the Old Bailey for administering drugs to procure abortion. He advised fern root, and the patient took it, but no untoward result occurred. The child of the woman was born at the proper time. He was acquitted.

Hellebore.—At the Norwich Lent Assizes in 1846, in the case of Reg. *v.* Whisker, the prisoner was accused of having given white hellebore to a woman for the purpose of inducing abortion. There was some little doubt expressed by the medical witnesses as to the noxious or poisonous quality of white hellebore. The Judge held that if in common parlance the substance was a poisonous drug it was to be so regarded here, and he thought there was sufficient evidence to bring it into this category. The jury found the prisoner guilty.

CHAPTER VIII.

METHODS (*continued*). LOCAL VIOLENCE.

MECHANICAL INJURIES TO THE UTERUS AND ITS CONTENTS.

A VARIETY of instruments has been used, and various mechanical means employed to procure abortion. Uterine sounds, catheters, knitting needles, iron wire, stylets, skewers, pieces of wood, twigs of trees, crochet needles, umbrella ribs, hair pins, hooks, penholders, goose quills, whale bone, curtain rods, lead pencils, and sponge or tupelo tents are among the list.

The object of all the various instruments made use of is to pierce the membranes containing the fœtus. This is invariably followed by expulsion of the contents of the uterus, sometimes quite quickly, at other times only after several days. Occasionally the instrument does not rupture the membranes but passes between the fœtus and the uterine wall. In this case abortion does not necessarily follow.

Other methods of disturbing the uterine contents are the injection of hot or cold water or soap and water into the uterus, the injection of irritating fluids into the vagina, blowing air or carbon dioxide through a catheter passed into the uterus, galvanism employed locally, the application of irritants such as silver nitrate, caustic potash or sulphuric acid to the cervix uteri, packing the vagina, and manipulation of or dilating the cervix. All these act by stimulating the uterus to empty itself. The application of caustic to the cervix has, on occasion, produced such stenosis that Cæsarean section has become necessary.

The Indian professional abortionists, the dhaees, who are women of the lowest caste, generally adopt the following method. They insert the twigs of trees some 6 to 8 inches long, known as "abortion sticks," wrapped over with wool, and smeared with asafœtida or some

other irritating substance such as arsenic, orpiment, red lead, plumbago or oleander, into the uterus. The membranes are ruptured and abortion takes place. The women very frequently die from sepsis, the uterine walls having been pierced and peritonitis set up. The cases are then called death from snake bite. Another Indian method is that of packing the vagina with a mass of irritating paste.

Examples of the various methods referred to are quoted below.

A Hindu woman, aged about 30, was found dead in a well in Agra. There was a gaping incised wound across the back of the neck, at the level of the third cervical vertebra, and an "abortion stick" about three inches long lying in the os uteri. An attempt to procure abortion had been made, which was not successful, and the woman had then been murdered.

A young woman who had previously been perfectly healthy, was found unconscious in her lodgings. She was removed to hospital in a state of severe prostration. She was thought to have taken poison. An examination of the urine showed oxyhæmoglobin bands when seen by the spectroscope. She was found to be pregnant. She recovered consciousness and then said she had given herself an injection of carbolic acid. Abortion followed and, later, death from septicæmia.

In the case of Whitmarsh, in 1898, the prisoner, after passing an instrument, gave an injection of corrosive sublimate as an antiseptic. The patient died of mercurial poisoning, with sloughing of the gums and of the mucous membrane of the uterus and vagina.

There is an old case, dated 1781, tried at Durham, when Margaret Tinckler was indicted for the murder of Janet Parkinson by inserting wooden skewers into the womb for the purpose of inducing abortion. A post-mortem showed that there were two holes in the uterus, in a gangrenous condition, due to perforation by the skewers, and this was the cause of death. Paris makes this quaint comment on the evidence: "Had these skewers been introduced after death, the appearances would have immediately denoted the fact, and could not be mistaken for the effects of inflammation and gangrene." I am puzzled to know for what possible purpose skewers might be inserted into the vagina after death.

The following case is a remarkable example of the extent of injuries produced by the passage of an instrument.

The patient was the wife of a physician, and her last period was ten days overdue. She made an attempt to procure abortion on herself in the following manner: She laid herself upon her bed and passed a piece of wire, 17½ in. long, part of umbrella rib, up the vagina, and, as she believed, into the uterus. There was very little pain or hæmorrhage. Having passed the wire till its end was opposite the vulva, she pushed it with her finger as far up as it would go, when it suddenly slipped and disappeared. Much alarmed, she sent for a doctor, who found an opening in the vaginal wall, on the left of the uterus. The wire could not be found. When the patient sat up she complained of a pain in the right side behind, just opposite the liver. Pneumonia of the right lung set in and the patient died. At the autopsy there was no peritonitis. Towards the left sacro-iliac synchondrosis, the end of a large wire, about 2 in. above the roof of the vagina, was detected by the finger. It was found to run deep down below the intestines just over the large vessels on the spine, across the abdomen to the liver: it had then penetrated the diaphragm and entered the lung for 2 inches. There was evidence of pneumonia in this lung. The doctor who saw her was greatly surprised at the small amount of pain produced by the passage of the wire and also by the fact that there was no hæmoptysis from the injury to the lung.

The following very unusual method of inducing abortion is recorded in *The Lancet* for April, 1831. A married woman with four children became pregnant, and early in the pregnancy was persuaded by a neighbour to inject sulphuric acid into the vagina, as an easy mode of inducing abortion. Severe inflammation set in, the parts swelled, great general disturbance ensued, and finally the vagina was quite obliterated. She kept the affair secret till she expected her confinement. The doctor attending found the head obstructed, and made an incision through the dense membrane. This was not sufficient, so Cæsarean section was performed. The infant was extracted, and found to have been dead some time. The mother died almost at once.

The case of R. *v.* Buckley, tried at Liverpool Assizes, November, 1894, is an example of extreme local violence. Dr. Dorman, in his evidence, stated that he was called to the house of a Mrs. Latham, where he found Mrs. Buckley lying on a sofa in the kitchen. She had been violently attacked by her husband and had run a distance of 200 yards in her nightgown to avoid a renewal of his brutality. The woman complained of severe abdominal pain, and was in a condition of collapse. She was expecting her confinement very shortly. At the time of the doctor's visit she was not in labour, but there was some hæmorrhage from the vulva, and he considered her quite fit to be removed to the workhouse hospital. Afterwards, in the presence of the prisoner, Dr. Dorman said to the woman, "Your husband is here. Tell me, what has he done to you?" She replied, "He threw me on the bed and put his hand in me many a time." Prisoner replied, "It's all lies." The patient was removed to her brother's house, and during the rest of that day she was visited by the doctor five times. The hæmorrhage had ceased, but the patient was in a condition of collapse. He called in another doctor, but owing to the very tender condition of the vagina it was found impossible to make a proper examination. The patient became worse, and when evidently dying Dr. Dorman sent for a magistrate. The doctor made notes of her statement as follows: (Has kicked her on the privates, knocked her on the bed, made her get up, and kicked her; put his hand inside her three or four times, struck her face, says he was drunk. Had been drinking long; said he would knock her head off. Had often ill-treated her before. He condemned her of another man. He said he could do it as well as any man or woman but for folk talking. To the question, "Did he want to bring on confinement?" she answered "yes." "In fear of death she adhered to truth of statement. All she has said is quite true. He actually put his hand in her body five or six times.")

As she was very near death, an attempt was made to deliver the child, but this was not successful.

At the autopsy the upper part of the vagina at its junction with the uterus was ruptured, and there was peritonitis.

For the defence it was urged that death was accelerated

by the removal of the patient from the house of Mrs. Latham to that of her brother, and that delivery ought to have been effected at once, but this was swept aside by the judge. This view was unfortunately supported in the box by a medical man.

Palmer, who was tried in 1928 on a charge of murder and manslaughter of a young married woman named Goldsmith, three months pregnant, whose death had followed an attempt to procure abortion in his consulting room, was lucky, in that the Grand Jury threw out the bill for murder.

The defendant denied all knowledge of the fact that his patient was pregnant. He possessed no medical qualifications. He practised as a medical electrician, licensed by the London County Council, at Upper Brook Street, giving treatment for muscular weakness and nervous debility. He said that Mrs. Goldsmith visited him five times for electrical treatment for muscular debility, and it was during the last of these visits that she died. The Lord Chief Justice asked questions of an electrical engineer who had been called to give evidence for the prosecution, and elicited the information that the apparatus employed was more or less harmless. It was similar to that used in hospitals and the amount of current was limited to 80 volts, quite insufficient in his experience to cause a serious burn or shock. This evidence the jury accepted notwithstanding the testimony of an electrical engineer called for the defence, who said he himself could not withstand the intensity of the full current obtainable from the apparatus.

Sir Bernard Spilsbury and Mr. Weir made a post-mortem and found an abrasion which suggested the use of a syringe, and the presence of soapy water, recently injected. The defendant denied that he had ever given her an injection. He said it must have been carried out by the deceased herself, or by some third party before she came to his consulting room. Dr. F. J. Browne, Professor of Obstetric Medicine in the University of London, who attended the post-mortem, expressed the opinion that death did not follow immediately on the injection, as the microscope revealed indications that a miscarriage had been going on for a few hours. Professor Browne thought it possible that the woman

could have made the injection herself, and agreed that death might have occurred from shock from a low-pressure electric current. This was the strongest evidence produced by the defence, but it did not explain why, if the deceased or some third party gave the injection elsewhere, she went immediately to Palmer for further electrical treatment for debility. Mr. Norman Birkett, for the prisoner, said that in dealing with the medical evidence they were in a region where an eminent man on one side said one thing, and an eminent man on the other side said the opposite. Both were honest men and both were distinguished men. One said this and one said that. In law, if there were any doubt, the prisoner was entitled to the benefit of that doubt.

The Lord Chief Justice in his final words to the jury, said, "They might think it right to ask themselves the question whether the true conclusion was not, as it well might be on this evidence, that the case for the prosecution had been established in every vital particular." The jury, after an absence of one hour and a half, brought in a verdict of guilty.

After the verdict the police disclosed that for months past the premises of the defendant had been frequently visited by the authorities because of suspicions that the practice of medical electricity was simply a cloak for running an establishment for procuring abortion. The Lord Chief Justice in passing sentence of seven years' penal servitude on Palmer, said, "The officer who gave his evidence so fairly concerning you mentioned certain suspicions that you had for some time past been carrying on the trade of abortion. I shall deliberately put out of my mind suspicions and rumours of suspicions. It is right that I should direct my attention to the evidence, and to the evidence in this case alone. That evidence convinces me that you were carrying on the trade of abortion. It was as a person carrying on that trade that you were consulted by Mrs. Goldsmith. It was as a person carrying on that trade that you treated her. Such persons undoubtedly subject their patients or clients to very grave risks, and it is right that all of them, wherever they may be in this country, should understand that they incur grave risk themselves. The law must have regard to human life even though the

particular life in the individual case may not be of the highest consequence."

Very extreme injury may be caused by attempts to procure abortion as the following case well shows. The accused was actually acquitted. Mrs. Westworth, the wife of the prisoner, had had three children, and was said to have stated that she would rather kill herself than have another. On the night of December 12 prisoner said he came home and found his wife lying on the sofa bleeding from the vagina. He at once fetched a doctor. His wife died the next morning. At the post-mortem the following conditions were found. About forty or fifty bruises on the arms and legs, four wounds of the vagina, the largest of which passed out of the vagina between the uterus and the bladder, into the peritoneal cavity. It then penetrated the tissues in front of the spine, ran alongside the aorta, entered the peritoneum again near the left kidney, twice perforated the mesentery at the top of the jejunum, and passed through the left kidney. The wound reached up to the pyloric end of the stomach which was bruised. A small brass poker with blood on the handle was found in the room. The doctors for the prosecution stated that it was physically impossible for such injuries to have been self-inflicted. Three doctors for the defence, on the other hand, held that the internal injuries might have been self-inflicted from behind. The woman was not as a fact pregnant. The husband was acquitted, which seems rather remarkable.

The following case is of interest. It occurred in 1906, and could scarcely happen in the present time when nursing homes are supervised by the Local Authority. A woman, named Elizabeth Miller, stated to be a professional nurse, kept a maternity home. Here it was alleged illegal operations were performed, and the dead bodies of infants were burnt or buried. The births and deaths of these infants were not notified to the Registrar. In the illegal operations Miller had the co-operation of a man named Craythorne, who was arrested soon after Miller. He committed suicide in his cell. In the case of infants duly born at maturity, medical men were called in and naturally they were not allowed to see anything of a suspicious nature in the home. The brazen callousness of the prisoner was well shown in the evidence of

one of her servants who deposed to having seen the body of a child being burnt in a fire lighted under a copper boiler, when her mistress said to her, "I have burnt dozens. You have not so much pluck as the other girls I had. They used to push them under as if they were nothing." The woman Miller advertised for her patients in the newspapers, and extracted fees varying from five to thirty guineas. She was sentenced to five years' penal servitude.

Injection of Fluid by a Syringe. Death.

In September, 1919, the High Court of Justiciary at Edinburgh tried a woman for causing the death of a young female clerk by performing an illegal operation. The case is of interest from the fact that the deceased who was about four months pregnant, had placenta prævia, and also because of the absence of any wound of the organs of generation. The assertion of the Crown was that the attempted abortion had been made by means of an injection into the womb by means of a Higginson's syringe. At the autopsy by Professor Littlejohn and Dr. Haig Ferguson there was found dilatation of the os and cervix, absence of the usual plug of mucus in the cervix, and partial detachment of the placenta round the internal os. There was evidence of considerable loss of blood, and the medical witnesses ascribed death to hæmorrhage and shock. All the internal organs were healthy and no other condition was found to account for death. The deceased went by arrangement one evening to the house of the prisoner at about 5.30 p.m.; she was then in good health and there was no history of previous illness or hæmorrhage. She was quite well at 9 p.m., except for slight sickness, alleged to be due to some strawberries and cream which she had eaten at some time earlier. At 9 p.m. deceased went to bed and the prisoner spent a quarter of an hour with her alone. The young woman then became ill, vomited, collapsed and died about 11 p.m. A Higginson's syringe and a basin of water was seen in the room immediately after the prisoner had been with her. Three obstetricians who appeared for the defence contended that the appearances were quite consistent with impending spontaneous abortion. The jury unanimously

found the prisoner guilty of culpable homicide, and she was sentenced to five years' penal servitude.

The following case is very unusual. A married woman menstruated for two days instead of four as usual, and feared herself pregnant. A week later on the advice of a friend she inserted two tablets, each containing 7·3 gr. of bichloride of mercury, into the vagina. Great pain followed. A doctor who saw her two hours later found the vulva, the vagina and the cervix uteri very much swollen, red, tense and shiny. He at once used a douche of soap and soda, and afterwards poured in the white of some eggs. She became very ill. A week later her face, neck and chest were swollen, her eyes closed, and her tongue so enlarged and protruding that the lips were forced apart. The mucous membrane of the mouth was black and sloughing, and the teeth falling out. She died of acute mercurial poison on the twelfth day.

At the Derby Assizes in 1873 before Mr. Justice Denman, James Poole, aged 49, an unqualified accoucheur, of Longnor, Staffordshire, was indicted for the wilful murder of Louisa Atkin, aged 16. The chief witness was the mother of the dead girl, who testified as follows: In February, noticing her daughter to be pregnant, she begged the prisoner to give her a little medicine to set matters right. The prisoner came to the house of the witness and was alone in a room with the deceased for half an hour. He then stated that the instrument he had brought ("a silver instrument with a kind of turn at the end") was not strong enough. Six days later the prisoner visited the deceased again, bringing a stronger instrument. Two days later she was confined of a dead girl, and died the next day from peritonitis. Mr. Twigg, of Parwich, gave evidence that he had made a necropsy, that the cause of death was inflammation of the womb due to mechanical violence, and that there was nothing in the condition of the deceased which would justify the procuring of abortion. The father of the dead girl, who according to the mother, was chiefly responsible for arranging the operation, had absconded. The evidence of the mother was considered untrustworthy as she had admitted she had committed perjury before the Coroner. The jury deliberated for three hours and then returned a verdict of "Not guilty."

Ann Sharpe, a charwoman, aged 48, was convicted at Nottingham before Chief Justice Bovill, of feloniously using an instrument with intent to procure the miscarriage of Harriet Moore. The girl Moore said she was pregnant and visited Sharpe who lived at Nottingham, on January 8, 1873. The prisoner punctured the membranes with an ivory crochet needle, and three days later Moore was delivered of a stillborn child. Sharpe was sentenced to ten years penal servitude, and another woman who was proved to be accessory to the fact was given fifteen months imprisonment. As has happened so often in similar cases the sympathy of the public was with Sharpe, who was a professional abortionist.

At the Warwick Summer Assizes held in July, 1885, before Mr. Justice Day, Thomas Millerchip, a physician and surgeon, was charged with attempting to procure abortion on Lucy Swain, a single woman, aged 20. Charles Robbins was at the same time charged with aiding and abetting him. The evidence showed that Robbins who walked out with Swain, finding at the commencement of the year that she was pregnant took her to see Dr. Millerchip. It was shown that the doctor had bought two sets of Lawson Tait's dilators in May, the second set being purchased the day before Swain went to reside in his house. According to the story of the prosecutor she stayed in the house of Dr. Millerchip about three weeks, during which time instruments were used on several occasions. The mother of the girl on receiving an anonymous letter went to the doctor's and demanded to see her daughter. The accused declined to let her do so until he had had an interview with the girl. At this interview Swain alleged that Dr. Millerchip removed the instrument which he had left in, and told her to keep silent on the matter. The contention of the prosecution was that the attempt to procure abortion failed, either because the dilators were never introduced into the uterine canal, or because he wished to prolong the procedure with the view to obtaining more fees. It was proved that before the instrumentation commenced the prosecutrix was dosed with perchloride of iron, about thirty drops at a time. Although great stress was not laid on this fact, it was included in the indictment as showing continuity of transactions between Millerchip

and Swain. For the defence it was urged that the girl went to reside with the doctor for the purpose of being confined. Counsel for the prosecution pointed out that she was hardly likely to do this three months before she expected. When Millerchip was arrested he expressed annoyance that Swain had "rounded on him." On searching the house no instruments like those said to be used could be found. This in itself looked suspicious, for it was certain that Millerchip had purchased them quite recently and in addition he could not explain what he had wanted them for, nor what had become of them. It was sought to discredit the evidence of Swain by alleging that she was being treated for gonorrhœa. This was urged to prove that the administration of the perchloride of iron was proper medical treatment for this complaint, and also that Robbins was her dupe. Medical examination by Drs. Aitkins and Herd showed only slight leucorrhœal discharge, and as the judge pointed out this proved nothing. Mr. Hill, Professor of Forensic Medicine at Queen's College, Birmingham, who analysed the mixture, stated that in his opinion it would only act as an abortifacient by its effect on the general system, namely by producing vomiting and retching. He agreed on cross examination that perchloride of iron was an appropriate remedy for anæmia and that in moderate doses it was calculated to hinder rather than procure abortion, but he thought the dose given by Millerchip a risky one. Mr. Pepper explained to the Court the mechanism and use of Tait's dilators and gave it as his opinion that if the uterine canal had been effectually entered by the instrument, in all probability abortion would have followed. No witnesses were called for the defence. The jury returned a verdict of guilty against both prisoners, with a recommendation to mercy in the case of Robbins. Millerchip who had previously been convicted of vagrancy, of wife desertion, and of manslaughter, was sentenced to ten years penal servitude, Robbins to twelve months imprisonment.

Injection of Perchloride of Mercury into the Uterus. Death.

A perfectly healthy woman, three months pregnant, injected some solution of perchloride of mercury into the

uterus, and as a result of this abortion followed. She died a few days later from acute mercurial poisoning.

A married woman, with several children, knew herself to be pregnant. She first took herbs, and then "scraped out the womb with a hairpin." She had made a looped end and used this as a curette, the operation being rendered easier by a slight prolapse of the womb. She was able to get this low down by pressing on the fundus. She had carried out this procedure before with the result that in the course of time she was delivered of a fleshy mole. In the present instance she was later delivered of a dead fœtus.

An inquest was held at University College in July, 1884, on the death of Mary Trumble, a single woman, aged 31. Her illness had commenced at the beginning of July, but no medical man was called to see her till the 14th. She was diagnosed as suffering from enteric, and was a few days later sent to the hospital. The house physician found her on admission to be moribund, and was unable to make a definite diagnosis, but thought probably she had had an abortion induced. He therefore refused a death certificate, until he had made a post-mortem examination. The coroner, Dr. Danford Thomas, on the facts being laid before him, ordered an inquest. On the first day of the hearing, Mr. Woolbert, the house physician, detailed the nature of a number of wounds he discovered and also other evidence which in his judgment clearly proved that an illegal operation had been performed. There were two punctured wounds external to the vulva, such as might have been made with a knitting needle or some such instrument. The vagina was extensively lacerated and bruised. The uterus together with the ovaries weighed 13 oz. On examining the interior, a flocculent appearance of the posterior part was seen and this was obviously the attachment of the placenta. Opposite this and quite unconnected with it was a ragged surface of smaller size. There were no signs of typhoid. Some doubt was cast on the findings of Mr. Woolbert, and the coroner adjourned the inquest with instructions to Mr. Pepper to investigate and report on the case. At the adjourned inquest Mr. Pepper said that he entirely agreed with Mr. Woolbert, that an instrumental abortion had been procured. He thought the wounds described

had been inflicted some days before death; he further found a small lacerated wound in the uterus three-quarters of an inch from the external os, and in a direct line with the larger one on the anterior surface. In one ovary was a corpus luteum measuring a half by a quarter of an inch. Mr. Pepper stated that he was quite certain that an abortion had been induced by violence and that it had been done by someone other than the deceased. He was further of the opinion that the instrument had been used by a person having some anatomical knowledge of the parts, as it had been steered directly through the os into the uterine cavity. He attributed the wounds and bruises about the vagina and vulva to the clumsiness or nervousness of the operator. The cause of death was peritonitis and septicæmia. It is a matter of regret, it was observed, that the real cause of her illness was not discovered during her lifetime as then measures might have been taken to treat her properly, and the means of bringing the perpetrator of the crime to justice would have been at hand. No evidence was brought forward to implicate any special person.

An inquest was held in November, 1885, at Crowndale Hall, by Dr. Danford Thomas, touching the death of a young woman, named Charlotte Clifford, which took place at the house of Mr. Turnbull, surgeon, of Hampstead Road. From the evidence it was shown that the deceased was a barmaid at the Boston Arms Hotel, Junction Road, Holloway, and that on November 9, the day on which she went to reside at Mr. Turnbull's, she was seen by several of her relatives who believed that, apart from a cold, she was in her usual good health. She told her friends that she was leaving her post and going to Devonshire for a few weeks' holiday. Her parents never saw her alive again, and the first news they had was from Mr. Turnbull, who two days after her death went to Croydon and had an interview with the father of the deceased whom he informed of his daughter's death. Mr. Turnbull, both by letter and word of mouth, related how she went to his house to reside as a patient. She had died he said of typhoid fever. Mr. Clifford was not satisfied with this tale and he communicated with the police, and then with the coroner, with the result that an inquest and post-mortem was ordered. Mr. Pepper and

Dr. Handfield Jones were asked to make the examination of the body. They found no signs of typhoid fever, but came to the conclusion that death was due to peritonitis and septicæmia, the result of a recent abortion. They fixed the duration of pregnancy as between two and three months. The uterus was enlarged and contained pus and there was peritonitis. In the right ovary was a deep orange-coloured corpus luteum, five-eighths of an inch in diameter. The inner wall of the vagina showed three superficial lacerations, beneath which was some extravasated blood. The throat was much congested, but it presented no characteristic lesions, in fact was affected only in such a way as might be explained in death from an acute septic fever. The mother of the girl had suspected pregnancy, from an incident connected with the washing of the clothes of the latter; and she even taxed her daughter with it, but the fact was denied. So far the only real evidence of pregnancy having existed was furnished by the medical men who made the post-mortem inspection. At the close of the inquiry on November 27, a practitioner, Mr. Watts, of Fortess Road, Kentish Town, came forward and deposed that a barmaid at the Boston Arms, whom he subsequently identified by a photograph as the deceased, had consulted him six weeks before with regard to her belief that she was *enceinte*. She went so far as to say that if the doctor thought her state was such as she had grounds for concluding, she should get married. Mr. Watts did not see her again, but his notes went to show that pregnancy had probably advanced nearly three months. This information was confirmatory of the opinion previously formed by Mr. Pepper and Dr. Jones. The jury returned a verdict in accordance with the medical evidence as to the cause of death, and after an exhaustive summing up by the coroner, they further found that Mr. Turnbull and Mrs. Notage (a certified midwife, who lived in the same house as Mr. Turnbull, and acted as his housekeeper) were chargeable with having caused her death by procuring abortion. It transpired that the deceased had no intention of going to Devonshire, and in this way she deceived her relatives and friends, for on the same evening on which she left her home, with the avowed purpose of going to the country, she went to reside at Mr. Turnbull's house. In

the course of his evidence, Mr. Pepper said he was unable to speak with any degree of certainty as to whether the vaginal injuries were caused by an attempt to initiate abortion, or to remove the products of conception after abortion had commenced.

During the course of these proceedings, a Mrs. Burton died and an inquest was held. Mr. Pepper gave evidence that death was due to pyæmia following abortion. She also had been attended in her last illness by Dr. Turnbull up to the time of his arrest. He was committed for trial on this charge also by Mr. De Reutzen.

At the Central Criminal Court, he was sentenced to ten years penal servitude, and Nottage to eighteen months hard labour.

THE FOLLOWING CASE SHOWS THE COMMON SEQUENCE OF DRUGS TAKEN—FAILURE—INSTRUMENTAL INTERFERENCE—DEATH.

It occurred in 1907. An inquest was held at Parson's Green on Eleanor Brown, aged 27, married, who died after a week's illness from blood poisoning following abortion. At the post-mortem examination, three perforations produced by a rigid instrument were found in the fundus uteri. There were no other injuries, so it was clear that in all probability the perforations had been made by someone other than the woman herself, though she denied any operative interference. The chief interest in the case centred in the fact that the deceased had obtained a mixture and pills with a view to terminate a seven months pregnancy at a shop carried on by herbalists. The present proprietor of the business had no record of the sale, but he admitted he dealt in such preparations as a "female corrective" for menstrual irregularities, and herbal pills for females. The first of these he said was the Mist. Ferri Co. of the Pharmacopœia, in which 25 minims of spirit of juniper was substituted for 50 minims of spirit of nutmeg. The second was the official Pil. Aloes et Ferri. The third contained tansy, rue and bitter apple. He made the admission that if a purchaser asked for the last, the Mist. Ferri Co. with a trace of tansy, rue, and bitter apple was supplied. In face of the fatal effects from the instrumental interference

it was impossible to say whether the mixture and pills had contributed to the abortion.

Abortion Procured by Decapitating the Fœtus with a Silver Hook. Peritonitis. Recovery.

At Cambridge a chemist and his wife who practised as a midwife were consulted by a girl aged 19, who wanted abortion procured. They gave her drugs with no success. Then, after she had paid £10, the chemist passed a silver hook up the vagina. This gave the girl a good deal of pain and blood flowed. The whole precedure was carried out a second time a few hours later. The next day she was so ill that a doctor was sent for who found she had peritonitis. Parts of a three months fœtus came away, first the extremities and trunk, then the head. The girl eventually recovered. Both the chemist and his wife were sentenced to five years penal servitude.

At the Liverpool Winter Assizes held in February, 1884, Sarah Mallison, a married woman, aged 50, was convicted and sentenced to death for the murder of Louisa Brierly, a single woman, aged 28, by procuring abortion. William Smart, a clerk of Huddersfield, was tried as accessory before the fact, and was also convicted and sentenced to death. The evidence showed that the deceased was pregnant by the prisoner Smart, and that Mallison received the deceased into her house in Manchester. After she had been there a week she died. There was clear proof that the female prisoner had used instruments at least twice, and that death was due to peritonitis in consequence. The prisoner Smart was proved to have paid Mallison money for what she was to do and the Judge laid it down to the jury that if they believed Smart induced the woman by an offer of money to perform the operation, he, though absent, was just as guilty of the crime of murder as if he had been present throughout. If two persons were engaged in an attempt to procure abortion, and the death of the woman operated upon ensued, then they were both undoubtedly guilty of murder. The sentence was afterwards commuted into penal servitude for life in both instances.

At the Central Criminal Court in March, 1884, Emanuel Truman, a labourer, aged 75, and his wife, aged 45, were

charged with procuring abortion by means of poisonous drugs and by other unlawful means on Eliza Ann West, a single woman. The result of their treatment was the death of the woman, West. They were sentenced respectively to fifteen and twelve years penal servitude, after being found guilty of manslaughter. The original charge was that of murder, but the jury took a merciful view and found the lesser charge. Before sentence was passed it was stated on behalf of the prosecution that there was reason to believe the prisoners had been engaged in practices of this description for a long period. When husband and wife are charged with the commission of a crime, the law has generally recognized the greater responsibility of the former. Here the male prisoner was very much older than his wife, and on other grounds his guilt was greater than hers, for he represented himself as possessing professional qualifications, and this held out strong inducement to women who desired abortion procured on them.

In March, 1929, a London doctor was charged at the Central Criminal Court with the manslaughter of a Mrs. Simmons, a school mistress, and with using an instrument or other unknown means to procure her abortion. He pleaded "not guilty."

The husband of the dead woman gave evidence that on the previous November 25 he went to the doctor's surgery and told him that some capsules which the doctor had given his wife did not agree with her, and asked him for something else. He was given two bottles of medicine and a packet of lint. The next day the doctor gave a certificate that Mrs. Simmons was suffering from influenza and rheumatism. After further visits from the doctor, the woman called in her regular family attendant. On December 10 the prisoner gave a further certificate that Mrs. Simmons was suffering from gastro-enteritis. She died subsequently. Suspicion was aroused and an inquest ordered. Sir Bernard Spilsbury who made a post-mortem examination attributed death to syncope as the result of abortion, sepsis and nephritis. He stated that in his opinion, death had been brought about by the passage of an instrument and that it must have been done by a skilled person.

Dr. F. J. McCann gave evidence for the defence. He

said that a woman suffering from nephritis might have a miscarriage in the early stages of pregnancy. The evidence as to the illness of the deceased disclosed a common condition, and there was nothing in the symptoms to indicate that the miscarriage was other than natural. Dr. Powell in the witness box denied having performed any operation. A half-hearted suggestion by the prosecution that he had administered morphia to the dying woman to prevent her making any admission or confession was also repudiated. It was complained by the defence that Dr. Powell had not had a proper opportunity of being represented at the post-mortem.

The doctor had been committed for trial by the magistrate for South-West London, as well as by the coroner, for manslaughter. Mr. Ingleby Oddie, the coroner, in his summing up said that Mrs. Simmons, a school mistress, whose youngest child was 8 years old, was anxious to have no more babies. She spoke on this subject to her husband, to a Miss Marsh, who got her some pills, which were not effectual, and to her family doctor, who strongly dissuaded her from any kind of attempted abortion, whether by drugs or otherwise. It was in these circumstances, when the pills and the doctor had failed her, that she had recourse to a medical man whom she had never consulted before.

The jury returned a verdict of "Not guilty."

CHAPTER IX.

DANGERS OF CRIMINAL ABORTION.

It will have been seen that general violence to the body and the use of drugs cannot be relied on to produce abortion, unless accompanied by very grave danger to the life or health of the woman. Death frequently occurs without abortion resulting. The third method described, the application of local violence to the contents of the womb, is more successful, but this unless performed with great care, under conditions of perfect asepsis, and by a skilled operator, is a very dangerous procedure often leading to death.

There are many serious risks which may be caused by the use of instruments, the chief of which are sepsis, hæmorrhage, shock and air embolism.

Sepsis is by far the most common cause of death. It is easily set up, the usual organisms being streptococci. These are found in over 90 per cent. of all cases. Other micro-organisms found, either alone or in combination with streptococci, are the colon bacillus, gonococci, pneumococci, the baccillus of diphtheria, *Bacillus pyocyaneus*, and *B. fœtidus*.

The operation for the induction of abortion requires the most scrupulous care, especially as regards asepsis, if it is to be carried out without risk or danger to the patient. It is easily possible for grave mistakes to be made by the unskilful operator. The instruments selected (they are usually more or less pointed) can in the absence of extreme caution readily be forced into the wrong place, and perforate the body or the cervix of the uterus which is in the pregnant state soft and easily punctured. As a result, peritonitis and septicæmia are set up.

The conditions, too, under which illegal abortion is so frequently attempted, the secrecy necessary, and therefore the difficulty of securing strict asepsis, the type of

person who is willing to perform the operation (too often some disreputable, dirty or drunken midwife or quack) render it difficult to take proper precautions for securing perfect cleanliness.

Then again, some days may intervene between puncture of the membranes and the expulsion of the fœtus, and want of knowledge or impatience of those concerned lead the women to press for further treatment and the ignorant operator agrees to carry this out. This of course adds enormously to the dangers. Finally the necessity for keeping secret the fact that the operation has been performed often compels the patient to go about her daily occupation as usual, and this adds a further considerable risk.

Illegal Operation. Death from Blood Poisoning.

The case or Reg. *v.* Inglis, which was heard at Leeds in 1898, has many points of interest. The prisoner Inglis was indicted for the wilful murder of Emma Anderton by the performance of an illegal operation. The medical evidence showed that the deceased had died from blood poisoning following abortion between the third and fourth months. The prisoner declared that she had given vaginal injections to ease pain, from which the dead woman suffered. She did not know that any pregnancy existed.

Mr. Justice Channell, in his summing up, said: "In spite of the Criminal Evidence Act, it is not the law that the prisoner has to make out his innocence: the prosecution must still prove him guilty. The Legislature would never have given the prisoner power of going into the box if the jury were always to put a discount upon his evidence. This point, however, should be considered when the evidence as a whole comes to be weighed. Now the popular idea of murder is that there can be no murder without the intention to kill. It is beyond dispute that if a person commits a felony, from which death does in fact result, murder has been committed. The only doubt which arises is where an act has been done which, although felonious, will not necessarily result in death, but that difficulty does not occur in this case. Again, if a person takes it upon himself to perform a

dangerous operation and death results in consequence of negligence, he may be found guilty of manslaughter. If the prisoner used the enema or syringe when it was foul, although she had no intention to procure abortion, she may be found guilty of manslaughter if it be proved to your satisfaction that septicæmia, which caused the death was due to her neglect in using an unclean instrument. It should be remembered, however, that septicæmia is one of the dangers of childbirth. It is often caused by carelessness or oversight. Matters remaining in the uterus, being dead, commence to decompose, and become a source of danger when not removed. In the present instance, Dr. Wilson observed traces of blood-poisoning when he first saw the patient. The poison therefore which contaminated the blood must be ascribed to some other source, if the doctor was correct in his diagnosis. Both the doctors are agreed that the mischief might have been caused by the use of an unclean syringe, but this is only one of the many ways in which such evil may arise. They also say that a syringe of this kind may be, and often is, used to wash out the vagina, but to introduce it into the neck of the womb is an extremely difficult operation, which can only be performed by a practised hand.

"The difficulty in this case, therefore, is to know what gave rise to the blood-poisoning. If its occurrence is equally consistent with natural causes and an unlawful act, you must not convict on that alone, but must weigh the other circumstances of the case. The deceased, in her statement, said that upon the occasion of her first visit she asked the prisoner to syringe her. She was syringed, felt no pain, and gave the prisoner one shilling. She also stated that she told the prisoner that she was pregnant and that she did not want to have any more children. It must not, however, be inferred from this that she meant the prisoner to perform an illegal operation. It does not appear that the deceased meant that the first operation was an unsuccessful attempt to procure abortion. Now, with regard to the second visit. Consider the circumstances in which the deceased woman was placed. She complained of a fall which had hurt her. She went out on the afternoon of the 17th with her child, and for a period of an hour and a half was exerting herself, and

exertion may have a serious effect upon a woman in her condition. You have heard the prisoner's statement that she syringed the deceased : you have heard that, according to the prisoner's story, it was done at the request of the poor woman to relieve her from pain. On the other hand, you have heard, upon the dying oath of the deceased, that the operation was done with intent to procure abortion. Counsel for the defendant had suggested that the evidence of the deceased was that of an accomplice, but such evidence does not legally require corroboration, although the Court will generally advise the jury that it is unsafe to rely upon it.

What, then, was the object of this act ? Was it done to procure abortion ? If so, it was an illegal act, and if in consequence the poor woman died, murder has been committed. Was it no more than a washing out of the vaginal parts with warm water ? If so, it was a harmless operation. Was it an illegal operation negligently done ? If so, your verdict must be manslaughter. On the other hand, if it was in your opinion illegal, and done with felonious intent, you must, having regard to the result produced, find the prisoner guilty of murder."

The jury found a verdict of " Not guilty."

Hæmorrhage occurs either from injury to the placental site or from the retention of the placenta or other products of conception. It is much less common as a cause of death or illness than the preceding.

The following is an unusual cause of death from hæmorrhage. A woman, aged 36, was six months pregnant, and died twelve hours after being operated on by a quack. At the autopsy the body was found bloodless, and the abdominal cavity full of blood partly clotted. There was an opening in the posterior wall of the uterus, extending into the right iliac artery. The opening was large enough to admit a quill. There were several other perforations of the womb. Neither the ovum nor the membranes had been punctured.

Shock results either from the injection of fluid into the uterus, or from the mere passage of an instrument into that organ in a sensitive person. It is not a very frequent accident, but may cause the almost instant death of a patient.

In April, 1920, before Mr. Justice Shearman, at the

Central Criminal Court, Devi Dayal Sasun, a doctor, of Brady Street, Bethnal Green, was tried for the murder of a young single woman. Sir Richard Muir, who prosecuted, said that the accused was a panel doctor with 3,600 patients, and was well known in the East End of London. The allegation was that the woman died as the result of an illegal operation performed by the doctor for a fee of £10. This operation took place in the surgery of the doctor, where the death took place. The body was then carried out by Sasun and placed under an archway. The prisoner himself went up to some policemen and told them that there was a woman lying drunk under the archway, and went with them to the place. Prisoner's object in calling the attention of the police, said Sir Richard, was that being the first person to find the woman, he would in the ordinary way be asked by the coroner to make a post-mortem and give evidence. This would be a very safe way for getting a verdict of natural death returned and diverting any suspicion from himself.

Dr. Spilsbury gave evidence that in his opinion death was due to shock following an illegal operation. Such occurrences were rare, but he had had experience of five cases.

Mr. Curtis Bennett, K.C., for the defence, called Dr. Russell Andrews, Dr. Fairbairn and Dr. Comyns Berkeley, who gave evidence voluntarily. They disagreed with the evidence that death occurred from shock. Dr. Fairbairn said death from shock under such circumstance was so rare that it was without his knowledge.

The jury acquitted the prisoner of murder, but found him guilty of manslaughter. There were further charges of procuring abortion on three other women, but they were not proceeded with.

A detective said he had found 116 letters signed by women, and that abortion had been carried out or attempted on all of them. Prisoner had been carrying on this trade for fifteen years. He was sentenced to ten years penal servitude.

Sasun carried the case to the Court of Criminal Appeal, where it was heard before the Lord Chief Justice, Mr. Justice Avory and Justice Roche. Sasun applied for leave to appeal against his conviction and sentence, and also to call other evidence.

The Lord Chief Justice said that no further medical evidence would help. The case against the appellant was that he had performed an operation with intent to procure abortion, and that the woman had died as the result of shock. Regarding the contention that the operation had not been proved to be the cause of death, his lordship observed that the woman undoubtedly visited Sasun on the day before she was found dead. There was considerable mystery as to what happened in the surgery and after she had left it, but there was evidence that she had died in the surgery, and that she had been carried by the appellant to an archway and there left. The main case for the appellant was that he had not performed an illegal operation on the woman.

Dr. Spilsbury's evidence for the prosecution established that the death of the woman was due to the insertion of an instrument used upon her, and that she had died within two or three minutes following the operation. Death like this was quite rare, but Dr. Spilsbury had met with several cases. Apart from this cause, there was no indication of the reason of death. In a bag found on the woman there was a bottle of chloral and in her stomach 7½ gr. of this drug was found, but it was clear that this was not the cause of her death. Three obstetric physicians had been called for the defence, but all they could say was that in the course of their normal and legitimate experience in cases in which all care had been taken, they had not met with a similar experience. In dismissing the application, his lordship said that all the facts had been fully presented to the jury, who, on a proper direction by the judge, found that Sasun had committed manslaughter and had killed the woman by performing an illegal operation upon her. The jury might well have found a verdict of murder, but had taken a more merciful course. Having regard to the fact that the appellant was found to be a professional abortionist, the sentence was not too severe.

There is no doubt that shock with sudden death does occur as the result of intra-uterine manipulations carried out during illegal operations. The Lord Chief Justice pointed out the reasons for the different opinions of the doctors who gave evidence. Dr. Spilsbury was used to dealing with investigations of criminal cases and had met

with it several times. The opposition doctors were used to dealing with normal gynæcological work and had never met with it. No doubt the conditions of strain and apprehension in the patient about to undergo an illegal procedure compared with the comparative calm of the average gynæcological patient account for the different results.

Air embolism from the introduction of air into the uterus whilst carrying out an intra-uterine syringing, may happen occasionally. Some air accidentally introduced into the organ enters the opening of a vein of the placenta or other part and causes immediate death. Though not at all common, several fatal cases from this cause have been recorded.

A woman, aged 26, was found dying in her kitchen, lying on the floor unconscious and breathing stertorously. She died ten minutes after being found. Near her lay a syringe and a vessel containing soapy water. The clothing was not torn or blood-stained. The husband had been absent during the evening, but testified that on previous occasions his wife had made attempts to procure abortion. She thought she was three months pregnant and had been making similar attempts. She told the neighbours that she could bring away the baby by injecting soapy water. At the autopsy the pericardium was found to be distended and tympanitic and in it was fluid blood containing air. There was also foamy blood in the right heart, and in both ovarian arteries air bubbles were present. There was also blood in the uterus and an embryo 6 cm. long, and at the site of the attachment of the embryo fluid blood containing air. The syringe had a long tube, one end terminating in a douche nozzle, the other in a sucking-up end-piece, with a hollow ball between to act as a pumping apparatus.

In another case a woman was found dead in bed by her husband at 11.30 p.m. At 9.30 p.m. he had gone to sleep and the woman had said something about taking a douche. The man was awakened by the crying of his child and found the body of his wife in an adjoining room where she had been sleeping. The body was partly clothed, the head and back upon one chair, the left leg upon another while on a table was an irrigating apparatus, a white powder in paper, a white cup con-

taining fluid, and on the edge of the cup colourless crystals. He placed the body of the woman in bed and tried to bring her to by traction on the tongue. The efforts were fruitless. At the post-mortem the pericardium contained clear brownish-yellow fluid. From the right chamber of the heart there were bubbles of air with fluid blood, and there were also bubbles in the veins of the pelvis and lower abdomen, also in the uterus and in the ovum. The powder was boracic acid. The syringe of the same nature as in the case above.

A married woman, aged 23, was in perfect health. She visited several friends one morning and made no complaint of her condition. She went home and at 9.30 a.m. was found lying dead on the floor. By her were two basins, one containing fluid and a Higginson's syringe. At the necropsy, the right side of the heart was distended with fluid frothy blood. The inferior vena cava and both iliac veins contained air. The uterus was four months pregnant and separated a little at its lower margin.

A widow, aged 24, was using a syringe *per vaginam* to induce abortion. She jumped up quickly with severe pain in the abdomen. She said her stomach was swelling and almost at once collapsed, frothed at the mouth, clenched her teeth and died. The uterus contained a fœtus. The amnion was not ruptured but stripped off the lower pole of the uterus. The placenta was a good deal torn below. A packet of zinc sulphate was found in her room and some of the same substance in the syringe and in the organs examined. The right side of the heart was distended with fluid blood containing air.

A woman was in good health till middle day. She called a neighbour who found her lying on the floor. She died soon after. There was a small amount of blood-stained discharge from the vulva. The heart was distended with fluid frothy blood. The inferior vena cava and the common iliacs contained air. The uterus was three months pregnant and contained blood-stained mucus at the external os. There were distinct signs of the passage of an instrument into the uterus. The ovum was unruptured but there was hæmorrhage along the course of the instrument. The police found that on the previous evening she had been visited by a reputed abortionist. They were unable to obtain sufficient evidence to convict.

A very unusual and very terrible accident following the induction of criminal abortion is illustrated in this case. In Algiers and other places *queue de persil* (parsley stem) is extensively sold and used for this purpose. Dr. Scherb was called to see a patient with trismus and other serious symptoms for which he was at a loss to find a cause. He discovered that five days previously an *opératrice* had passed a piece of parsley stem into the uterus of the patient and had provoked abortion at three months. In two days the ovum was expelled with very little hæmorrhage. The woman declared that the *opératrice* had carefully disinfected the stem. Parsley grows freely in Algiers on dunghills and places likely to contain the tetanus bacillus and this was undoubtedly the source of infection. The patient died.

In addition to these various complications which are so often fatal, there are many others, which, whilst not terminating in death, yet cause the patient severe and prolonged illnesses. If, for example, the expulsion of the fœtus is not complete, and part of the placenta remains, decomposition may ensue and septicæmia follow. This is not, however, often fatal.

Pelvic peritonitis, pelvic cellulitis and chronic disorders of the uterus, especially sub-involution, are other frequent results of incomplete abortion.

The deaths from sepsis after criminal abortion are higher in proportion than in normal confinements and from the circumstances in which they are carried out this would be expected. In Bavaria there were 530 cases of puerperal fever after normal birth with a mortality of 106, i.e., 20 per cent., while of 113 of puerperal fever after abortion the mortality was almost 50 per cent. This shows how much more likely women are to have fatal fever after abortion than after normal confinements.

Even an operation in which the miscarriage is complete leaves its traces; it has been said that a successful abortion means a damaged mother, an unsuccessful one means a damaged mother and a damaged child.

CHAPTER X.

GENERAL REMARKS.

THE interval between the puncture of the membranes and the expulsion of the fœtus is very variable, sometimes a few hours, sometimes a few days. Orfila found in thirty-four cases in which he was able to take careful notes, that the minimum was thirteen and a half hours, the maximum six days. Tardieu in thirty-six cases found the interval varied between five hours and eleven days. Dixon Mann gives three to four days as the usual period. Ramsbotham says the time is between ten hours and one week, usually fifty to sixty hours. Three to four days may I think be taken as a fair average.

The period at which criminal abortion is most frequently procured is in the third to the fifth month of pregnancy. Authorities differ to some extent on this, and it is naturally very difficult to obtain accurate records from those who commit this crime. Orfila states the first two months is the most frequent time, Devergie puts it at three to four and a half months, Briand and Chaude at three months and Tardieu the same. Taylor states it is rare before the third month, usually between the fourth and fifth.

In the Paris Morgue, during a period of seventeen years, 692 fœtuses of less than nine months duration were deposited. Of these 23 were in the second month, 79 in the third, 108 in the fourth, 158 in the fifth, 150 in the sixth, 97 in the seventh, 48 in the eighth, 29 in the ninth, i.e. nearly 60 per cent. were from the third to the sixth month. These figures cannot be taken as an accurate estimate of the actual times at which criminal abortion is procured, for it is not probable that a very young fœtus would be likely to reach the Morgue. The body would be quite small, and very easy to destroy. The marvel is that such a large number of undeveloped

fœtuses ever did find their way to this place. It is so very easy to dispose of an embryo of, at any rate, less than six months of age.

As a rule the woman who has abortion procured on her wants to be sure that she is pregnant. After missing a period or two, she usually takes some drug and finding that this is inefficacious, later, generally before the fifth month, and before the abdomen becomes too large, resorts to instruments. Some women try to pass these themselves, but unless the uterus is considerably prolapsed they find the task is by no means an easy one. Therefore the majority resort to the professional abortionist, of whom there are unfortunately only too many in every large town.

Partridge relates the case of a woman in the seventh month of pregnancy who pushed a hairpin into the womb and allowed it to remain there. Nothing happened for three weeks, and then the woman became ill and sought the advice of a doctor who found the hairpin had penetrated the uterine wall. The os was dilated, the hairpin and the ovum extracted, but the patient died of peritonitis.

That self-induced instrumental abortion is not so difficult to some women as is generally imagined, is instanced by the following. A medical man, writing in the *British Medical Journal* in 1898, relates the case of a woman who described the method she was wont to employ in the following terms. She first bought a metal catheter from a man who gave her full instructions as to procedure. She boiled the catheter, soaked it in 1 in 40 carbolic and then passed it in. She was instructed to turn it round once or twice, but this she did not do. If there was no bleeding, she used it again. Before buying the catheter, she had been in the habit of injecting water into the uterus by means of a syringe bought abroad, so she was an expert in intra-uterine manipulations. Another case recorded in the same paper is that of a woman who had induced abortion thirty-five times on herself by means of a thick knitting needle which she passed into the uterus. On several occasions her life was endangered from severe hæmorrhage.

A midwife, aged 35, whilst living apart from her husband, became pregnant. At three months she

attempted to procure abortion on herself. The injuries were so severe that they might easily have been supposed to have been caused by some other person. On admission to hospital she had hæmorrhage from the vagina, and was suffering from rigors. As she was so ill, the uterus was emptied, and a normal fœtus and placenta found with no signs of decomposition. A few days later she became rambling in her mind, during which she said she had dipped a catheter in lysol, and passed it into the uterus, where it had slipped out of reach. She died shortly afterwards. At the necropsy purulent peritonitis was found, and among the intestines was a broken-off piece of bougie, 5 in. long and $\frac{1}{10}$ in. thick, which lay below the liver. There was a perforation in the uterus. Although during pregnancy the uterine wall is softened, it must have required a considerable degree of force to push up this catheter, perforate the uterus, and then break off the end.

Attempted Self-Abortion. Perforation of the Uterus.

This case is a further illustration of the grave danger a woman runs who attempts to pass an instrument in herself for the purpose of inducing abortion. A woman, aged 26, had an illegal operation performed on her by a midwife by the introduction of a bougie, which she afterwards gave to the patient to use if she should again become pregnant. A year later her period was two weeks overdue, so she passed the instrument, causing herself no pain. She placed a tampon in the vagina to keep it in position. This came out after some hours and she thought that the bougie came away also, though she did not see it. Abortion did not follow but a tender lump appeared in the abdomen. On opening the abdomen an abscess cavity was found in which was the bougie. It had perforated the uterine wall. The patient was extremely lucky to escape with her life.

What is the type of person who is willing to run the risk of procuring abortion for others? Who is responsible for the immense number of these cases? There are nurses, midwives, druggists, quacks of every description, and unhappily a few medical men, some one of whom

can be readily procured. Their names are known and given by one woman to another and the reason why it is so difficult for the police to interfere is that both operator and patient are guilty in the eyes of the law. I well remember being in a large and popular boarding house in Brighton where the visitors were of the "fast" and "advanced" type, and here the name of a professional abortionist was readily, openly, and frequently passed on from one woman visitor to another.

In the majority of cases it is a woman who carries out the operation. Thus in France, in 185 trials, where the woman had not procured abortion on herself, there were 417 accused parties, of whom 75 per cent. were women.

The apparatus of one of these professional female abortionists is thus described. She was a woman named Graham, who was sentenced in Edinburgh in December, 1897, to five years penal servitude for performing an illegal operation. Besides a pessary or two and some condoms, she had a bottle of ergot, a box of aperient pills, a syringe, some tupelo tents, a speculum, a sound, and an old gum-elastic male catheter and stylet. It is impossible to imagine that any woman could need this collection if she were not engaged in the performing of illegal operations.

Sometimes by artifice a perfectly honourable doctor has been tricked into performing an illegal operation inadvertently. A woman desiring an abortion persuades the doctor to pass a sound for the purpose of examining the womb, and by this means attains the desired result. Fortunately, this instrument is not very often employed by medical men at the present time, and the likelihood of this trick succeeding is now small.

A Portsmouth doctor was consulted by a lady for various uterine symptoms, for which he advised curetting. This was carried out and he then discovered that she was pregnant. She had told him her periods had been quite normal, and after the operation she acknowledged she had tricked him so that he might unwittingly induce abortion.

The abortionist is usually discovered owing to the death or grave illness of the patient. If the woman recovers without serious results, naturally neither of the guilty parties desires the crime to be disclosed, and it will be

obvious, therefore, that for every case which comes into court (either those in which the patient dies, when the operator is charged with murder or manslaughter, or those when the patient recovers, and the operator is charged with procuring abortion), a large, indeed a very large number are never heard of. Rentoul, who has made a special study of this subject, estimates that there is one prosecution to every thousand criminal abortions.

An interesting series of cases of criminal abortion is recorded by Blondel of Paris. They number fifty-two, and of the operators twenty-two were midwives, two were medical students, one a medical man, one a pharmacist, six were "lady friends," and one was the husband. Nineteen said they had operated on themselves: in five instances by taking medicine, in fourteen by manipulation, nine times by the injection of soap, three times by violent exercise, once with a knitting needle and once with a bone pin. As regards the midwives, the patients made the following statements. In three instances the name and address of the midwife was obtained from a newspaper advertisement. On fifteen occasions the midwife used a steel sound, and on ten occasions a gum-elastic catheter and an injection. This last method was extremely painful, and on two occasions brought on an attack of syncope. Abortion came on usually within eight days. There was no fatal case in this series. This contrasts very forcibly with the experience of most other observers. Tardieu probably had a very exceptional series, for he notes 60 deaths out of 116 cases, and although this may be regarded as a very high rate, it is quite certain that the figures of Blondel are most unusual.

Brouardel, referring to French midwives, says that the injection method is a favourite one with them. Some of them, with a view to obtaining still higher payment, inject so-called *eau d'argent* or *eau d'or* in the form of coloured water. Blondel mentions that in his series two patients had procured abortion on themselves, one by inserting a knitting needle, one by pushing a bone pin into the uterus. In such instances it is nearly always the case that the uterus is prolapsed, for it is difficult to imagine the average woman succeeding in this unless the uterus were quite low down, though from the cases quoted

above it will be seen there are exceptions to this statement.

There are men whom no amount of punishment seems able to deter from the repeated procuring of abortion. William Hollis was convicted of procuring criminal abortion and sent to ten years penal servitude. Immediately he was released he repeated the offence, and as death ensued in his victim he was sentenced to be hanged. This was commuted to penal servitude for life. He was released after twenty years at the age of 74. He at once returned to his old methods, was again tried, and sentenced once more to penal servitude for life. Such a record is almost incredible.

Here is another more or less similar instance. Mr. Justice Grantham at the Old Bailey in March, 1904, passed sentence of seven years penal servitude on Bertha Bandach, an elderly German woman, for manslaughter. She had caused the death of a woman by bringing on abortion, from which septicæmia ensued. Not many months before, she had, to the knowledge of the police, procured abortion on the same woman. She had been tried on a similar charge and acquitted the previous year, and in 1895 had been convicted for procuring abortion and sentenced to five years penal servitude. A point worth noticing in this case was raised during the trial of this woman. An attempt was made to suggest that traces of injury inside the uterus of the decedent discovered at the autopsy might have been inflicted by the victim herself in using a vaginal syringe. In addition to medical testimony as to the difficulty which she would have found in reaching the spot indicated, the prosecution claimed the right to give evidence of similar accidents having happened in other cases with which the prisoner had been associated. This evidence was admitted by the judge, and it is clearly of great importance that it should be so, as the suggestion of an innocent accident, however unconvincing it may seem to medical men, is a defence which it is easy for an abortionist to raise.

A month or two ago, Jane Blatherwick, aged 65, a boarding-house keeper of Wigan, was at Liverpool Assizes sentenced to ten years penal servitude for the manslaughter of Ethel Boulton, 28 years old, a single woman, by an illegal operation. Mr. Justice Humphreys,

on passing sentence, said : " You have already done seven years penal servitude. That did not cure you. Then you had twelve months imprisonment in 1919 for a similar offence. I can only prevent you from carrying on your infamous trade for a substantial period." It is a pity that the jury in this case did not return a verdict of murder and get rid once and for all of such a woman.

CHAPTER XI.

LAW OF ABORTION—HISTORICAL.

THE earliest reference to the legality of abortion is contained in the Old Testament. "If men quarrel, and one strike a woman with a child, and she miscarry indeed, but live herself; he shall be answerable for so much damage as the woman's husband shall require, and as arbiters shall award. But if her death ensue thereupon, he shall render life for life; eye for eye, tooth for tooth, hand for hand, foot for foot." (Exodus, chapter xxi, 22, 23, 24.) Here the indication is clear. If as the result of the injury sustained a miscarriage followed, a money payment was inflicted. If death ensued then the crime was a capital one.

The New Testament makes no reference to abortion, but the Christian fathers faced the situation with resolution. Tertullian, in the second century, voiced their views when he said, "Murder being once for all forbidden, we may not destroy even the fœtus in the womb. To hinder a birth is merely a speedier homicide; nor does it matter whether you take away a life that is born or destroy one that is coming to birth."

Hippocrates, the famous Greek physician, "The Father of Medicine," writing in the fourth century before Christ, gave the following oath, which is still administered to all the members of the medical profession: "I swear by Apollo, the physician, and Æsculapius, and health and all heal, and all the gods and goddesses, that according to my ability and judgment I will keep this oath and this stipulation—to reckon him who taught me this art equally dear to me as my parents; to share my substance with him and relieve his necessities if required; to look upon his offspring on the same footing as my own brother's, and to teach them this art, if they shall wish to learn it, without fee or stipulation; and that by precept,

lecture and every other mode of instruction, I will impart a knowledge of the art to my own sons, and those of my teachers, and to disciples bound by a stipulation and oath according to the law of medicine, but to none others. I will follow that system of regimen, which, according to my ability and judgment, I consider for the benefit of my patients, and abstain from whatsoever is deleterious and mischievous. I will give no medicine to anyone if asked, nor suggest any such counsel: *and in like manner I will not give to a woman a pessary to produce abortion.* With purity and with holiness I will pass my life and practise my art." (The italics are mine).

The oath is the only evidence that the Greeks were in opposition to abortion. Plato and Aristotle expressed themselves in favour. Very little is known of the legal attitude of the nation to the crime.

In Roman times, the procuring of abortion was included in the class of offences called *Extraordinaria Crimina*, i.e., "unusual accusations," and a woman who procured her own miscarriage was liable for an *extraordinarium crimen*, but was not liable under the Lex Julia against homicide. An unborn child was not regarded as a human being, but *pars viscerum matris.*

There is no trace of any Roman penal law until the time of Vulpian in the early part of the third century when abortion was made a crime. The Justinian Code of the sixth century confirmed the laws of the Vulpian period but made a distinction between abortion before and after forty days in the case of a male and eighty days in the case of a female. How the doctors divined the sex is not stated, unless the dictum of Hippocrates that boys quickened a month before girls could be supposed to help.

In later Roman times, about the end of the seventh century, it was decreed that the procuring of abortion was murder and punishable by death. Lecky, in his "History of the Roman Empire," discusses the question of abortion: "Thus again the criminality of abortion has been considerably affected by physiological speculations as to the time when the fœtus acquires the nature, and therefore the *right*, of a separate being. The general opinion among the ancients seemed to have been that it was but a part of the mother, and that she had the same

right to destroy it as to cauterize a tumour upon her body. The Roman law contained no enactment against voluntary abortion until the time of Vulpian.

The Stoics thought that the infant received its soul when respiration began. The Justinian Code fixed its animation at forty days after conception. In modern legislation it is treated as a distinct thing from the moment of its conception." The same writer, speaking of the efforts of the early Christians to raise the moral tone of the age, says "The influence of Christianity in this respect began with the very earliest stage of human life. The practice of abortion was one to which few persons of antiquity attached any deep feeling of condemnation. In Greece, Aristotle not only countenanced the practice, but even desired that it should be confirmed by law, when population had exceeded certain limits. No law in Greece, or in the Roman Republic, or during the greater part of the Empire, condemned it; and if, as has been thought, some measure was adopted condemnatory of it before the close of the Pagan Empire, that measure was altogether inoperative. A long chain of writers, both Pagan and Christian, represent the practice as avowed and almost universal. They describe it as resulting simply from licentiousness or from poverty, but even from so slight a motive as vanity, which made mothers shrink from the disfigurement of childbirth. They speak of a mother who has never destroyed her unborn offspring as deserving of signal praise, and assure us that the frequency of the crime was such that it gave rise to a regular profession. . . . In the penitential discipline of the church, abortion was placed in the same category as infanticide and the stern sentence to which the guilty person was subject, imprinted on the minds of Christians more deeply than any mere exhortation a sense of the enormity of the crime. By the Council of Ancyra the guilty mother was excluded from the Sacrament till the very hour of her death; and though this penalty was soon reduced, first to ten, and after to seven years penitence, the offence still ranked among the gravest in the legislation of the church."

In Anglo-Saxon times, this crime was regarded as an ecclesiastical offence, and not as one under civil law. Before the Norman Conquest, all offences against the

person, except homicide, were treated rather as torts than as crimes.

After the departure of the Romans from Britain it was many centuries before there were "jurisdictions" and "courts" for the decision of cases. A permanently settled government was hardly thought of. It was only after the Norman Conquest that the barbarous customs which preceded it gradually developed into legal processes. Before the time of William I there was, for all practical purposes, no central authority to demand an account from its distant subordinates. At the end of the reign of Henry I the second of the Public Records was written. In this an attempt was made to give the kingdom what it never possessed before—uniformity in its laws and in the method of administering them.

It was in the reign of Henry II that the local and private jurisdictions which had grown up after the fall of the Roman Empire yielded slowly and sullenly to the the institutions which men who had studied the Roman civil law believed to be better alike for king and people.

The Roman traditions have never been entirely lost on the Continent, and they could not fail to produce their effects upon our island when the Norman rule brought it under the influence of French lawyers and Italian ecclesiastics. The civil law, however, was not yet applied in practice, for it could not easily be harmonized with the feudal tenure of land, or with the native methods of trying and punishing criminals, and commercial contracts had not yet assumed sufficient importance to demand a special mode of procedure. But it was no small gain to the country when a school of law was established, and when men, trained by the study of the Roman jurist, began to deal with the hideous conglomeration of inconsistencies, which under the name of local customs had survived the Norman conquest.

As regards post-Norman common law, abortion as a separate crime seems to have grown from the refusal of the law to recognize it as a species of murder. Bracton (*c.* 1250) treated it as homicide, i.e., murder. A case in the year books of Edward III is mentioned in Statham's abridgment of the law of England, written about 1470. This cites an indictment of a man for killing an infant in its mother's womb, which indictment was quashed on

the technical ground that no baptismal name of the child was given, and also because it was hard to know if he did kill it.

About 1290 there was published a work entitled "Fleta: seu Commentarius Juris Anglicani, sub Edwardo ab anonyme conscriptus; editus, cum dissertatione historica ad eundem per Jo. Seldenum." This is a commentary on the whole of English law as it stood at about the end of the thirteenth century. The name of the author is unknown. He gives as a reason for the title, "Fleta," that it was written whilst he was confined in the Fleet Prison. The passages dealing with abortion were as follows:—

"Section 10. Qui etiam mulierem pregnantem oppreserit, vel venenum dederit vel percusserit ut faciat abortivum, vel non concipiat, si foetus erat jam formatus et animatus, recte homicida est." (Moreover, whoever shall have overlain a pregnant woman, or shall have given her drugs or blows, in such a sort to procure abortion, or non-conception after the fœtus shall have been already formed and endowed with life, is by law a homicide.)

"Section 11. Et similiter qui dederit vel accepterit venenum sub hac intentione ne fiat generatio vel conceptio." (And in like manner, whoever shall have given or taken drugs to the intent that no generation or conception may take place.)

"Section 12. Item facit homicidum mulier quae puerum animatium per potationem et hujus modi in ventre decastaverit." (Also the woman commits homicide who by potions and drugs of that sort shall have destroyed her animate child in her womb.)

Thus it will be seen that the common law of over five hundred years ago regarded abortion as a very serious offence, and in many respects this common law is similar to the statute law of to-day. Of the several Acts passed concerning abortion, it was only in 1861 that it was laid down that a woman who attempted to procure her own abortion was guilty of a crime. The previous Acts had not made this an offence. But by the common law, as stated above in Section 11 of "Fleta," a woman who took drugs to procure her own abortion was committing an illegal act.

At the commencement of the Stuart period it seems to

have been a very usual custom for women who were going to have illegitimate children to wait and allow delivery to take place naturally, rather than to procure abortion. When the child was born it was at once killed, and the mother usually declared that it had been born dead. So frequent was this crime of infanticide of illegitimate children that an Act of Parliament was passed in 1623 (21 Jas. I *c.*, 27) with the object of lessening the evil. The Act was repealed in 1805 (43 Geo. III *c.*, 58), and this was the Act which first made abortion a statutory offence, although previous to this it had been an offence at Common Law.

The Act of James I was briefly as follows: If a woman delivered of issue, which being born alive would be a bastard, endeavoured by burying, drowning, &c., by herself or others, so to conceal its death, that it might not appear whether born alive or not, it was murder, unless she prove by one witness at least that it was born dead. Thus the law was different as regards ordinary murder and the murder of bastard children; in the latter case the *onus probandi* was in some measure thrown upon the accused, as she had to produce testimony that the child was born dead if she were to prove her innocence. This is totally at variance with the general principles of justice as administered in this country.

The law of Scotland was even more severe. The mere fact of hiding the pregnancy, whether the death of the child were proved or not, was a capital felony. In the Act of George III it was laid down that the trials of women for murder of bastard children should proceed on the same rules of evidence as other murder trials. The reference in the Act is thus worded: "And whereas doubts have been entertained respecting the true sense and meaning of a certain Act of Parliament made in England, in the twenty-first year of the reign of his late Majesty King James the First, intituled an act to prevent the destroying and murthering of bastard children . . . and the same has been found in sundry cases, difficult and inconvenient to be put in practice: for remedy whereof, be it enacted by the authority aforesaid, that from and after the first day of July in the year of our Lord one thousand eight hundred and three the said Act, and everything therein contained, shall be, and the same is

hereby repealed: and . . . the trials in England . . . of women charged with the murder of any issue of their bodies, male or female, which being born alive would by law be bastard, shall proceed and be governed by such and the like rules of evidence and of presumption as are by law used and allowed to take place in respect of other trials for murder, and as if the said . . . act had never been made. Provided always, and be it enacted that it shall and may be lawful for the jury by whose verdict any prisoner charged with such murder as aforesaid shall be acquitted, to find, in case it shall so appear in evidence, that the prisoner was delivered of issue of her body, male or female, which, if born alive, would have been bastard, and that she did, by secret burying, or otherwise, endeavour to conceal the birth thereof, and thereupon it shall be lawful for the court, before which such prisoner shall have been tried, to adjudge that the prisoner shall be committed to the common gaol, or house of correction, for any time not exceeding two years."

In France, at a little earlier date, the same condition of things occurred. The number of people committing the crime of infanticide had increased so much that the following decree was promulgated. Considerable importance was attached to the fact that the child who was killed immediately after birth, or who failed to attain live birth, could not receive the Sacrament of Baptism, which in the Catholic Church is a matter of cardinal moment.

"Henry, by the Grace of God, King of France. To all present and to come, greeting. Like the most Christian Kings of France, our predecessors and progenitors, who by their virtues and Catholic acts each in his day showed in most praiseworthy fashion that the said title of Most Christian was given to them for good and sufficient reason, we, wishing to imitate and follow their example, and having by divers good and salutary examples testified the desire we have to keep and preserve this Heavenly and excellent title, of which the principal effects are to initiate the creatures whom God sends into this world, in our Kingdom and in all the territories subject to our allegiance, into the sacraments ordained by Him, and when it pleases Him to recall them to Himself carefully to provide the

sacraments instituted for this purpose with the last rites of burial. And being informed of a vile and execrable crime frequent in our kingdom, which is that many women having conceived children in immoral ways or otherwise, are persuaded by evil counsels to disguise, hide and conceal their pregnancies without disclosing or declaring anything about them. And when the time for their delivery comes about they get rid of the fruit of their womb in a hidden manner, then suffocate, beat to death, or otherwise suppress it without giving it the benefit of the Holy Sacrament of Baptism. This done they throw it away into secret and filthy places, or bury it in unconsecrated ground, thus depriving it of Christian burial. When brought before the judges and charged with this they excuse themselves, saying they were ashamed to declare their wrong-doing, and that their children have come forth from their womb dead and without any appearance of hope of life, so that in default of other proof the Justices of our Courts of Parliament, in dealing with such criminal actions brought against women, have been led to diverse opinions, some being in favour of the punishment of death, others of the 'extra-ordinary question' (torture), so as to know and learn from their mouth whether in truth the child that came from their womb was dead or alive. When after such question by torture nothing has been confessed, most often they are taken back to prison, which has been and is the cause of making them again become guilty of such crimes, to our great regret and the scandal of our subjects. Against this it is our wish to provide in future."

"We therefore cause it to be known that, desiring to extirpate and cause the complete cessation of the said execrable and detestable crimes, vices, and iniquities committed in our said Kingdom, and to remove the occasions leading to their repetition, we, with a view to the prevention of such things, have decreed and ordained, and by Perpetual Edict, General and Irrevocable Law, of our own mere motion, plenary power, and royal authority, say, declare, wish and ordain, and it is our pleasure that every woman who shall be duly convicted of having hidden and concealed either her pregnancy or her delivery without having declared the one or the other, and having obtained sufficient testimony as to the one

and the other, and also as to the life or death of the child born of her womb, and it is found afterwards that the child had been deprived both of the Holy Sacrament of Baptism and of the usual public burial, that woman shall be held and reputed to have murdered her child, and by way of reparation shall be punished by death and the last penalty with such rigour as the particular nature of the case deserves so as to be an example to all. And that hereafter there may be no doubt or difficulty about the matter, by these presents we entrust the execution of this decree to our friends and faithful counsellors, the Judges of Parliament, the Provost of Paris, the Bailiffs, Seneschalls, our officers and justicers. Given at Paris in the month of February, the year one thousand five hundred and fifty six, the tenth of our reign."

About thirty years later, in 1585, Henry II of France added another clause to this decree to the following effect.

"That no serving woman, chambermaid or other, may be able to plead ignorance of the above decree we enjoin all parish priests to publish to the people the contents of the said ordinance in their sermons at parochial masses every three months, and we order our procurators and lords high justicers to see that such publication is made."

The following extract from "The History of the Pleas of the Crown" by Sir Mathew Hale, some time Lord Chief Justice of the Court of King's Bench, published in 1736, but written much earlier, is of considerable interest in connection with abortion.

"If a physician give a person a potion without any intent of doing him any bodily hurt, but with an intent to cure or prevent a disease, and contrary to the expectation of the physician it kills him, this is no homicide, and the like of a chirurgeon, 3 E 3. Coron. 163. And I hold their opinion to be erroneous, that think, if he be no licenced chirurgeon or physician, that occasioneth this mischance, that then it is felony, for physic and salves were before licenced physicians and chirurgeons and therefore if they be not licenced according to the statute of 3 H. 8 cap. 11 or 14 H. 8 cap. 5, they are subject to the penalties in the statutes, but God forbid that any mischance of this kind should make any person not licenced guilty of murder or manslaughter."

"These opinions therefore may serve to caution ignorant people not to be too busy in this kind with tampering with physic, but are no safe rule for a judge or jury to go by ; we see the statute of 34 and 35 H. 8. cap. 8 dispenseth with the penalty of those former statutes, as to outward applications and medicines for ague, stone, or strangury, which may be administered by any person, and the preamble of the statute tells us, that if none but licenced chirurgeons should be used in many cases many of the king's subjects were like to perish for want of help."

"But if a woman be with child, and any gives her a potion to destroy the child within her, and she take it, and it works so strongly that it kills her, this is murder, for it was not given to cure her of a disease, but unlawfully to destroy her child within her, and therefore he, that gives a potion to this end, must take the hazard, and if it kill the mother, it is murder, and so ruled before me at the assizes at Bury in the year 1670."

Blackstone (1768) says clearly that it is not murder to kill an infant in the womb, but a great misprison i.e., heinous offence under the degree of felony. Coke states "If a woman be quick with child and by a potion or otherwise killeth it or if a man beat her, whereby the child dieth in her body, and she is delivered of a dead child, this is a great misprison and no murder ; but if the child be born alive and dieth of the potion, battery or other cause, this is murder."

CHAPTER XII.

LAW OF CRIMINAL ABORTION IN MODERN TIMES.

THE Acts of Parliament dealing with Criminal Abortion which have been passed in this country are as follows :—

(*a*) 43 Geo. III c. 58 (1803).
(*b*) 9 Geo. IV c. 31 (1828).
(*c*) 1 Victoria c. 85 (1837).
(*d*) 24 and 25 Victoria c. 100 (1861).

Each of these Acts repealed the one preceding it, so that the second Act of Queen Victoria, that passed in 1861, states the law as it now stands, though the terms and conditions of the punishment awarded have since been altered by statute.

Although the procuring of abortion had been for 500 years by common law a crime, it was only in 1803 that it was made a statutory offence.

The first of the Acts referred to, that of George III, passed in 1803, is entitled, "An Act for the further prevention of malicious shooting, and attempting to discharge loaded firearms, stabbing, cutting, wounding, poisoning and the malicious using of means to procure the miscarriage of women. . . ."

The parts of this Act which deal with the crime of abortion are as below. "If any person shall wilfully, maliciously and unlawfully administer to or cause to be administered to or taken by any of his Majesty's subjects any deadly poison or other noxious and destructive substance or thing, with intent thereby to cause and procure the Miscarriage of any woman then being quick with child . . . shall be and are hereby declared to be Felons, and shall suffer Death as in Cases of Felony, without benefit of Clergy."

"And whereas it may sometimes happen that poison

or some other noxious and destructive substance or thing may be given, or other means used with intent to procure miscarriage or abortion where the woman may not be quick with child at the time, or it may not be proved that she was quick with child: be it therefore enacted, that if any person or persons, from and after the first day of July in the said year of our Lord one thousand eight hundred and three, shall wilfully and maliciously administer to, or cause to be administered to, or taken by any woman, any medicines, drugs, or other substance or thing whatsoever, or shall use or employ, or cause or procure to be used or employed, any instrument or other means whatsoever with intent thereby to cause or procure the miscarriage of any woman not being, or not being proved to be, quick with child at the time of administering such things or using such means, that then and in every such case the person or persons so offending, their counsellors, aiders and abettors, knowing of and privy to such offence, shall be and are hereby declared to be guilty of felony, and shall be liable to be fined, imprisoned, set in and upon the pillory, publickly or privately whipped, or to suffer one or more of the said punishments, or to be transported for any term not exceeding fourteen years, at the discretion of the court before which such offenders shall be tried and convicted."

It will be seen that by this Act the attempt to procure abortion on a woman quick with child by means of drugs was punishable by death, whereas if the woman were not quick with child the punishment was transportation or imprisonment, whether the attempt was made by drugs or instruments. There seems to have been a remarkable oversight, for the Act does not make it any crime to attempt to procure abortion on a woman quick with child by means of instruments.

The first trial under this Act, known as Lord Ellenborough's Act, took place in 1811. The accused was charged with the administration of savin to a woman for the purpose of procuring abortion. He was acquitted. An account of the trial will be found under the drug savin (p. 44).

The next Act was that of George IV in 1828, entitled "An Act for consolidating and amending the Statutes in England relative to offences against the person." It

is known as Lord Lansdowne's Act. The particular clauses dealing with abortion are as follows :—

"Clause 13. And be it enacted, That if any Person, with Intent to procure the Miscarriage of any Woman then being quick with Child, unlawfully and maliciously shall administer to her, or cause to be taken by her, any Poison or other noxious Thing, or shall use any Instrument or other Means whatever with the like Intent, every such Offender, and every Person counselling, aiding, or abetting such Offender, shall be guilty of Felony, and being convicted thereof shall suffer Death as a Felon ; and if any Person, with Intent to procure the Miscarriage of any Woman not being or not proved to be, then quick with Child, unlawfully and maliciously shall administer to her, any Medicine or other Thing, or shall use any Instrument or other Means whatever with the like Intent, every such Offender, and every Person counselling, aiding, or abetting such Offender, shall be guilty of Felony, and being convicted thereof, shall be liable, at the Discretion of the Court, to be transported beyond the Seas for any Term not exceeding Fourteen Years nor less than Seven Years, or to be imprisoned, with or without hard Labour, in the Common Gaol, or House of Correction, for any Term not exceeding Three Years, and, if a Male, to be once, twice, or thrice publicly or privately whipped (if the Court shall so think fit), in addition to any such Imprisonment."

Again, in this Act it will be noted that the offence was a capital one if the woman were quick with child, but if she were not quick with child the crime was not punishable with death. Many pretty legal arguments took place over the exact meaning of the phrase "quick with child," and this will be referred to later. The Act remedies the omission previously mentioned.

Then followed the Act of 1837, the first year of the reign of Queen Victoria, called "An Act to amend the laws relating to offences against the person."

The relevant clause was the sixth. "And be it enacted, That whosoever, with Intent to procure the Miscarriage of any woman, shall unlawfully administer to her or cause to be taken by her any Poison or other Noxious thing, or shall unlawfully use any Instrument or other means whatsoever with the like Intent, shall be guilty

of Felony, and being convicted thereof shall be liable, at the Discretion of the Court, to be transported beyond the Seas for the Term of his or her natural Life, or for any Term not less than Fifteen Years, or be imprisoned for any Term not exceeding Three Years."

This Act altered the law in two important respects. There was now no distinction between women quick with child or women not quick with child, and the offence was not punishable with death.

In 1853 a German quack was tried for having used a certain instrument with the intention of procuring abortion on a young woman named Mary Fielding. The instrument was a syringe. The prisoner said he had used the syringe with an injection for the cure of gonorrhœa, from which he alleged the young woman was suffering. The judge raised a technical point to the prosecution. He was of opinion that this was not using an instrument with the intention of procuring abortion within the meaning of the Statute. The syringe was merely an instrument containing a liquid, and he held that in law it was necessary to prove that the liquid was of a noxious character before the prisoner could be convicted. This appears to me to have been a very incorrect reading of the law, for it specifically states in the 1837 Act, under which this case was tried, "whosoever shall unlawfully use any instrument or other means whatsoever with the like intent." This surely includes the employment of a syringe for the purpose of procuring abortion.

Mr. Eric Neve, of the Middle Temple, has made the following comment on this opinion of mine :—

"The real reason for the judge's intervention was to point out to the prosecution that the essence of the charge was the intent, and that so far as a syringe may or may not be used innocently, it was essential to guilt that it was used with the deliberate intention of procuring abortion. The fact that it was a syringe or anything else is only relevant after you have established the intention with which it was used. Indeed, in the case of R. *v.* Dale, reported in 16 Cox at page 703, a quill was the instrument used, and as it was possible that a quill might have been used for an innocent purpose, evidence was admitted (*in order to prove intent*) that a similar instrument had

been used by the prisoner in other cases where miscarriage had resulted. Therefore, in the Fielding case, I should hesitate a long time before I said that the judge was wrong in his reading of the law; in fact, I think personally he was right in that he was apparently pointing out to the prosecution that the syringe only became an instrument under the Act if they could prove it was not used for an innocent purpose, and one way of doing that was to prove that it contained liquid of a noxious character."

The last Act dealing with the subject was passed in 1861, and is again an offence against the person Act. The sections which state the law of abortion are Sections 58 and 59, and they now read as follows :—

"Section 58. Every woman being with child, who, with intent to procure her own miscarriage, shall unlawfully administer to herself any poison or other noxious thing, or shall unlawfully use any instrument or other means whatsoever, with like intent, and whosoever with intent to procure the miscarriage of any woman, whether she be or be not with child, shall unlawfully administer to her or cause to be taken by her any poison or other noxious thing, or shall unlawfully use any instrument or other means whatsoever, with the like intent, shall be guilty of felony, and being convicted thereof shall be liable to be kept in penal servitude for life or for any term not less than three years or to be imprisoned for any term not exceeding two years, with or without hard labour."

"Section 59. Whosoever shall unlawfully supply or procure any poison or other noxious thing, or any instrument or thing whatsoever, knowing that the same is intended to be unlawfully used or employed with intent to procure the miscarriage of any woman, whether she be or be not with child, shall be guilty of a misdemeanour, and being convicted thereof, shall be kept in penal servitude for a term of not more than five years, or less than three years, or to be imprisoned for any term not exceeding two years, with or without hard labour."

(The punishment awarded in the Act has been modified by the Statute Law Revision Act, 1893, and the Penal Servitude Act, 1891, and is now as given above.)

There is an important addition to the law in this Act,

for it makes it a statutory offence for the first time for a woman to attempt to procure her own abortion. Previous Acts referred to persons other than the woman herself, or at any rate, even if it was not specifically laid down in the older Acts, they were interpreted to exclude women attempting the offence on themselves. The offence of procuring abortion by a second person is independent of the pregnancy of the woman; but if the woman attempts the offence on herself it is no crime if she is not pregnant. But although it is not a statutory offence for a non-pregnant woman to attempt her own abortion, yet she can be convicted under the common law for conspiring with others to procure her own miscarriage.

Quite a number of legal points have been raised in the interpretation of this Act. The most important of them are discussed by Halsbury in his "Laws of England." The following are reproduced from his work :—

Under Section 58: If a woman takes a substance which is in fact harmless, believing it to be a noxious thing with intent to procure her miscarriage, she is guilty of the common law misdemeanour of an attempt to procure abortion (R. *v.* Brown, Darling, J., 1899). In order to constitute the statutory offence the thing supplied or administered must be proved to be noxious (R. *v.* Isaacs, 1892). The quantity of an otherwise noxious drug may be so small as to take the case out of the Statute (R. *v.* Parry, 1847), and a large dose of a drug which is harmless when taken in small quantities may be a noxious thing within the meaning of the Statute (R. *v.* Cramp).

If a person procures poison for a woman with intent to procure her miscarriage, to which intent she is a party, and she does in fact take it, though in his absence, he may be convicted of the felony of causing it to be taken by the woman, and not merely of the misdemeanour of procuring it with the intent. (R. *v.* Wilson, 1856).

A woman cannot be convicted of administering poison to herself with the intent to procure her own miscarriage unless she be in fact with child. But though she be not pregnant she may be convicted of conspiracy to procure abortion (R. *v.* Whitchurch, 1890) or of aiding and abetting others in committing the felony of administering

poison or some noxious thing to her with intent to procure her miscarriage. (R. *v.* Sockett, 1908).

To prove the intent with which the noxious thing was administered or the instrument used, evidence showing that the prisoner had on previous occasions used similar means with the avowed intent to procure abortion or that he had previously admitted having done the same thing, is admissible. (R. *v.* Bond, 1906). But such evidence should only be admitted with caution. It should only be admitted where the prisoner has suggested that the administration of the drug or the use of the instrument was legitimate or accidental on his part and not when the defence was a denial of the act itself. And proof of one only other similar case, without any special connection with the case charged in the indictment, ought not to be admitted, the object of evidence of this kind being to prove a systematic course of conduct by the prisoner in such cases, and so to negative the defence that his action on the particular occasion was legitimate or accidental.

Section 59: A person who supplies something he believes to be noxious for the purpose of procuring a miscarriage cannot be convicted of this misdemeanour unless it is shown as a fact that the substance in question is noxious for that purpose (R. *v.* Isaacs, 1862).

In the case of Reg. *v.* Brown, tried by Mr. Justice Darling in 1899, on an indictment charging the defendants that they "unlawfully did incite, counsel, procure and aid one . . . she being a woman with child, to commit a misdemeanour to wit unlawfully to attempt feloniously, and unlawfully to administer to herself certain noxious things to wit divers drugs capable of procuring abortion of pregnant women, the name of which drugs are to the jurors unknown, with intent thereby to procure her own miscarriage," and with conspiracy to incite her to feloniously, &c., it was held

(*a*) That if a woman believing that she was taking a noxious thing within the meaning of the Act, with intent to procure her own abortion takes a thing harmless, in fact she was guilty of an attempt to commit an offence against Section 58, but

(*b*) That if the defendants in supplying this drug to the woman though they well knew that she would take it in the belief that it was a noxious thing and with intent

to procure her own abortion, did not themselves believe that it was capable of so doing they could not be convicted of inciting to commit the offence, although if they had so believed it would have been otherwise.

It was in accordance with the definition below, which was contained in the draft Criminal Code drawn up by Lord Hailsham, Baron Lush, and Mr. Justice Stephen (Art. 74) that the woman was convicted.

"An attempt to commit an offence is an act done or omitted with intent to commit that offence, forming part of a series of acts or omissions which would have constituted the offence if such series of acts or omissions had not been interrupted, either by the voluntary determination of the offender not to complete his offence, or by some other cause.

Everyone who believing that a certain state of facts exists, does or omits an act the doing or omitting of which would if that state of facts existed, be an attempt to commit an offence, attempts to commit that offence although its commission in the manner proposed was by reason of the non-existence of that state of facts at the time of the act or omission impossible. The question whether an act done or omitted with intent to commit an offence, is or is not only preparation for the commission of that offence and too remote to constitute an attempt to commit it, is a question of law."

The fact that medicine supplied by the accused is followed by illness and a miscarriage is evidence that the thing supplied is noxious (R. *v.* Hollis, 1873).

The offence of supplying a noxious drug is complete even if the intention to use it for the purpose of procuring abortion exists only in the mind of the person supplying it. (R. *v.* Hillman, 1863).

If death results from criminal abortion, brought about by a second person, the crime is either wilful murder or manslaughter. The law was thus stated by Lord Justice Bramwell, in Stadtmuhler's case at the Liverpool Winter Assizes in 1858. "If a man for an unlawful purpose used a dangerous instrument and thereby death ensued that was murder, although the person dead might have consented to the act which terminated in death, and although possibly he might very much regret the termination that had taken place contrary to his hopes and expectations.

This was wilful murder. The learned counsel for the defence had thrown on the judge the task of saying whether the case could be reduced to manslaughter. There was such a possibility, but to adopt it would, he thought, be to run counter to the evidence given. If the jury should be of the opinion that the prisoner used the instrument, not with any intention to destroy life, and that the instrument was not a dangerous one, though he used it for an unlawful purpose, that would reduce the crime to manslaughter. He really did not think they could come to any other conclusion than that the instrument was a dangerous one if used at all. Then if it were so used by the prisoner, the case was one of murder; and there was nothing but a verdict either of acquittal or murder."

In a case where a person gave medicine to a woman to procure abortion and in another where a person put skewers into the womb of a woman for the same purpose (in both cases the women died), these acts were held to be murder, for though the death of the woman was not intended the acts were deliberate and malicious and necessarily attended with great danger to the person on whom they were practised. In another example where the prisoner was indicted for the wilful murder of a woman and it appeared that the woman had died as the result of the prisoner having injected mercury or having used other means upon her with the intention of procuring abortion, Bigham J. told the jury, "If you are of the opinion that the girl died as the result of the prisoner unlawfully operating, he is guilty of murder. . . . I do not mean to say that there are not some cases where death is so remote a contingency that no reasonable man could have taken it into his consideration. If you think that though the prisoner may have administered the injection, he nevertheless could not have contemplated that it could have resulted in death, then he is not guilty of the graver charge but he is guilty of the lesser charge of manslaughter."

In R. *v.* Lulley, where accused was indicted for murder and it was alleged that he had performed an illegal operation on the deceased that caused her death, the jury were directed by Mr. Justice Avory that if they

were satisfied that the accused did in fact either use an instrument or other means for the purpose of procuring abortion and death resulted from that act, it would be murder if the accused contemplated or must as a reasonable man have contemplated that death or grievous bodily injury was likely to result, but that if he did not contemplate and would not as a reasonable man have contemplated such result but thought by his own skill as a medical man he could perform the operation without risk of such result, it would be manslaughter.

Up to about the end of the last century the abortionist who killed his patient was invariably charged with murder. Mr. Justice Hawkins in passing sentence of death on an abortionist (R. *v.* Culmore, 1881) said "That the offence amounts to wilful murder is the law as it at present stands, and as in all human probability it will exist in time to come." About twenty-five years ago juries began to show their unwillingness to convict on the capital charge, and reduced the crime to manslaughter. The Crown then ceased prosecuting for murder. In the case of Palmer in 1928 the old rule was reverted to, but the jury threw out the Bill and he was tried for manslaughter, receiving seven years penal servitude.

The last trial in which the death sentence passed on a criminal abortionist was carried out took place at Liverpool in 1876, the man being an unqualified practitioner named Heap. The case was tried by the late Baron Pollock. On its being found that Heap was to be hanged efforts were made to obtain a reprieve, and the foreman of the jury which had recommended him to mercy, made a public statement that had the jury known that the men would be executed, they would have found a verdict of manslaughter. The Judge had held out no hope of mercy at the trial as there had been a previous conviction for abortion against Heap. The Home Office refused a pardon and he was hanged. Since then many men have been sentenced to death for this crime of criminal abortion, e.g., Cornelius Asher, a herbalist at Leicester in 1876; Ann Cartledge, a midwife in 1877; the two Colmers and an unqualified practitioner named Haywood in 1880; a chemist named Hollis in 1882, &c., but in all these cases the sentence was reduced to one of penal servitude on the recommendation of the Home Secretary.

If the products of conception are monsters, moles or extra-uterine fœtations, it makes no difference as far as the performance of an illegal operation is concerned; the crime is just the same in law. Though such cases are rare, they do occur.

In 1841 at Drôme, in France, a girl was accused of procuring abortion on herself. The fœtus was an acephalous monster, and in addition to the absence of the head, other organs were deficient or badly formed. The medical evidence proved that the child had never breathed. On the upper part of the body was a wound produced by a pointed instrument. Counsel for prisōner contended that as the fœtus was a monster, abortion could not be said to have taken place. His client had never been really pregnant. She was acquitted.

The law of conspiracy in abortion was decided quite clearly and definitely in the case of the Queen *v.* Whitchurch, Howe, and Cross by the Court for the Consideration Crown Cases Reserved in February, 1890. The accused were tried at Northampton Assizes, and the two male prisoners Whitchurch and Howe were convicted under Section 58 of the 1861 Act of the felony of administering drugs to the female prisoner Elizabeth Cross, with intent to procure her miscarriage. The woman was not, in fact, with child, though at the time she and the two male prisoners supposed she was. She therefore could not be convicted under Section 58. She was not indicted under Section 59, for the facts were not such as in the opinion of those responsible justified them in asking for a conviction against her for procuring poison with the intent to induce abortion ; but the three prisoners were jointly indicted for conspiracy to procure the miscarriage of the woman. On behalf of the latter it was urged that as she was not with child, the means used could not have the effect of procuring miscarriage, and therefore she could not be convicted. The Court, however, unanimously held this contention to be wrong. The charge against the prisoners was one of conspiracy to commit a felony (which was actually committed by the two male prisoners) and the fact that the woman could not commit that felony in no way excused her from the substantive offence of conspiracy with which she was charged.

It is a well-known maxim that conspiracy is a crime of itself, even though the act which the conspiracy was intended to accomplish was not in itself prohibited by our criminal law. An old but apt illustration is given by the case in which it was laid down that a conspiracy to seduce a girl is a crime, punishable as such, although seduction by itself is not a crime, but only gives rise to a civil action for damages. The present case is much stronger. These men Whitchurch and Howe took measures to commit a crime when they administered drugs to the woman Cross, with a view to procure her miscarriage, and she was a willing party to what they did, and so joined in the conspiracy to commit the crime. The case is of importance to the medical profession because they are often asked to supply or prescribe medicines or use other means for purposes similar to those intended by the prisoners. It shows that the fact that the woman is not pregnant, is no answer, if the supply of drugs or use of instruments for the purpose of inducing abortion is established.

Another unusual point in the law dealing with abortion is illustrated in a case tried at Nottingham Assizes. Elizabeth Topham was indicted for the murder of a woman by performing an illegal operation. The deceased was found to have died from this cause but nevertheless the jury returned a verdict of not guilty. There was however another indictment against the prisoner charging her with performing the operation in question. She was re-arrested and tried two days later. It was urged on her behalf that she had already practically been acquitted on this second charge, because if the jury had been satisfied that she performed the operation they must have found her guilty of murder. Mr. Justice Day ruled that the question was simply whether at the former trial she could have been technically found guilty of the second charge. As she could not, the judge decided that the case must proceed. She was sentenced to twelve years penal servitude. The case exemplifies well that the old doctrine of *autrefois acquit* is subject to limitations. There are circumstances under which a person may appear to be tried twice for the same offence.

The clauses in the Indian Penal Code which deal with abortion differ in essential points from the English law: they are as follows :—

Section 312. Causing miscarriage. "Whosoever voluntarily causes a woman with child to miscarry, shall, if such miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both, and if the woman be quick with child, shall be punished with imprisonment of either description, for a term which may extend to seven years, and shall also be liable to fine."

A woman who causes herself to miscarry is within the meaning of this section.

"With child" means pregnant, and it is not necessary to show that quickening, that is, perception by the mother of the movements of the fœtus, has taken place, or that the embryo has assumed a fœtal form. The stage to which pregnancy has advanced and the form which the ovum or embryo may have assumed are immaterial.

Miscarriage means the premature expulsion of the child or fœtus from the mother's womb at any period of pregnancy, before the term of gestation is completed.

Quick with child. When the woman has felt the child move within her.

Section 313. Causing miscarriage without woman's consent. "Whoever commits the offence defined in the last preceding section without the consent of the woman, whether the woman is quick with child or not, shall be punished with transportation for life, or with imprisonment of either description which may extend to ten years, and shall also be liable to fine."

Section 314. Death caused by act done with intent to cause miscarriage. "Whosoever with intent to cause the miscarriage of a woman with child, does any act which causes the death of such woman, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine: and if the act be done without the consent of the woman shall be punished either with transportation for life, or with the punishment above mentioned."

It is not essential to this offence that the offender should know that the act is likely to cause death. Even though the woman is not pregnant, yet if the death is caused by administering a drug under the belief that she

was so, the offence will probably come under this section.

Section 315. Act done with intent to prevent child being born alive or to cause it to die after birth. "Whoever before the birth of a child does any act with the intention of thereby preventing that child from being born alive or causing it to die after its birth, and does by such act prevent that child from being born alive, or causes it to die after its birth, shall, if such act be not caused in good faith for the purpose of saving the life of the mother, be punished with imprisonment of either description for a term which may extend to ten years, or with fine or with both."

Section 316. Causing death of quick unborn child by act amounting to culpable homicide. "Whoever does any act under such circumstances that if he thereby caused death he would be guilty of culpable homicide, and does by such act cause the death of a quick unborn child, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."

Section 511. Punishment for attempting to commit offences punishable with transportation or imprisonment. "Whoever attempts to commit an offence punishable by this code with transportation or imprisonment, or to cause such offence to be committed, and in such attempt does any act towards the commission of the offence, shall, where no express provision is made by this code for the punishment of such attempt, be punished with transportation or imprisonment, of any description provided for the offence, for a term of transportation or imprisonment which may extend to one half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both." Under this section therefore, the unsuccessful attempt to procure abortion is punished. Under the code imprisonment is divided into two classes: (*a*) rigorous, that is with hard labour; (*b*) simple.

The chief points of difference between English and Indian law are as follows. Under section 312 to constitute a crime the woman must be pregnant and as a result of what is done she must miscarry: (2) A distinction is made between a woman quick with child and one

not quick with child. The latter is the less severe offence; (3) if the consent of the woman is not given, the crime is regarded as a more serious one than if she gives her consent; (4) therapeutic abortion for the purpose of saving the life of the mother is definitely recognized as lawful; (5) if the death of the woman follows an illegal operation, it is not a capital offence; (6) the punishment of cases of abortion may be as light as a fine only.

The law of Scotland is different to that of England. To procure abortion is not a statutory crime, but it is a common law offence. Anyone who feloniously causes or procures a pregnant woman to abort is guilty of a very serious crime, whether it be effected by drugs or instruments. A woman may herself be a guilty party if she knows why the drugs are given or the instruments used. The use of the drugs or instruments to procure abortion, although the desired effect does not follow, is illegal. To establish the crime, it must be proved that the woman was pregnant.

CHAPTER XIII.

DYING DECLARATIONS.

A DYING declaration is of such great importance, and is especially likely to be needed in case of criminal abortion, that I append here a statement of the exact legal position of medical men, on whom the onus will most likely fall if such a declaration has to be taken. This is largely based on the opinion of Professor Dixon Mann. A first principle of English law is that the only evidence admitted in a court of law is that tendered on oath. The dying declaration is admitted as an exception to this principle on the ground that anyone who is convinced that he is in danger of immediate death feels himself equally under the obligation to tell the truth as if he were in the witness-box and were on oath. If the patient should recover, contrary to expectations, his statement is of no value and is not admissible as evidence. For a dying declaration to be valid, the person who makes it must feel convinced that he is about to die, and this must be definitely stated in the written declaration. If the condition of the patient will allow of the necessary delay, it is wise to inform the police, who should at once procure a magistrate. He will then take down the patient's statement. Under these circumstances, the only duty of the medical man will be to testify as to the medical fitness of the dying person to make the statement. But if the condition of the patient is so urgently serious that there is not time to carry out this procedure, it is the duty of the doctor to take down the declaration.

The following are excellent rules for guidance under such conditions. One or more educated and intelligent persons should, if possible, be procured as witnesses. Whilst not strictly necessary, it is always well to do this if possible. The doctor must then definitely satisfy himself that the person making the declaration is quite

convinced that he is about to die. This should be entered at the commencement. This expectation of death must have no qualifications. A declaration commenced with the words "No hope of my recovery at present." The last two words completely invalidated the statement.

As nearly as possible, the actual words used by the person should be used, and no questions asked, unless to clear up some obscure point. It should be limited to what was done to the deponent at the time the injuries were inflicted. When completed, it should be read over to the person making it, and if possible he should sign it. The writer and the witnesses should also sign at the time the declaration is made.

If death takes place so rapidly that to write down the statement would be impossible, the doctor should listen to anything the dying person wishes to say, and as soon as possible put down in writing, as nearly verbatim as he can, what was said, and sign it. If any witnesses were present they also should sign.

The importance of making sure that a dying declaration is carried out according to the conditions imposed by law is well illustrated by this case.

Helen Forester, a midwife, was charged with the wilful murder of Helen Venables, by making use of an instrument for procuring abortion. The deceased was a married woman, the mother of several children. She went to the prisoner in April, 1866, and gave her £3 to induce abortion. She was five months pregnant. The abortion was carried out and the woman died. Dr. Augustus Brown said that at about 10 at night on April 26 he was called to attend the deceased. She lived in Barnsbury Park. She was in a very excited state when he first saw her. From his examination he concluded that she had recently been delivered. She died on May 6. He made a post-mortem with two other doctors. They found that the uterus had been lacerated and punctured, that this had led to peritonitis, and subsequent death. She made a statement but at the time she did so he did not tell her she would die. On the night he first saw her, she told him she was sure she would die. She lived ten days afterwards.

Mr. Justice Byles asked what were her words as nearly as the witness could tell.

The witness replied that the exact words of the dead woman were "I am sure to die." Again before she made the statement she expressed the opinion that she would not recover. That was a day or two before she made the statement. Witness told her she was very seriously ill. He wrote the statement she made and it was embodied in the depositions.

The prosecution tendered this statement and asked that it might be read.

Counsel for the defence objected on the ground that under the circumstances in which it was made, it could not be received.

Mr. Justice Byles yielded for the present to the objection, and thought the prosecution should exercise its right at once of cross-examining the witness.

Witness in cross-examination said he did not tell her she would die before she made the statement. He told her she was in great danger; that as long as there was life there was hope; but that they, as her medical advisers, had lost all hope. That was immediately before she made the statement. He expressed no opinion about her death before she made it. She spoke of her friends and wished them to be written to. He went for a magistrate but he did not come. She said she knew she would die before the statement was made.

Mr. Justice Byles: What was the last expression by her, with reference to her state before you actually wrote her words down?

Witness: "I am sure I shall die."

What was the last expression of your opinion as to her state before you wrote what you did? I told her she would not recover.

The statement was again tendered as evidence.

Counsel for the defence objected as before, that it was not receivable under the circumstances in which it was made. He remarked that the witness, without meaning it, had contradicted himself two or three times.

After much discussion the learned Judge held that the person making a dying declaration must either be, or suppose himself to be, in a dying state. He had thought at first to reserve this point, but now he should not do so. He should decide at once that the objection was a valid one and that the statement tendered could not be re-

ceived. He could not decide in favour of the prosecution unless he believed she knew she was in a dying state at the time she made it. The evidence of the medical man was not to be reconciled, and the statement here made was not upon oath.

Counsel for the prosecution admitted that the doctor had contradicted himself.

Mr. Justice Byles said he must reject the statement because he did not see clearly that Mrs. Sloman knew she was passing out of this world, and that all terrestrial things, so far as she was concerned, were coming to an end.

The Crown admitted that if the statement were rejected, the prosecution must fail.

The learned Judge told the jury that, assuming on the evidence that the unfortunate woman died from the criminal attempt made upon her to procure abortion, there was no testimony to prove who made that attempt, and the prisoner must be acquitted.

As this case is a very important one as far as it concerns the law of evidence on dying declarations, and also is of considerable interest to medical men who may have to take these dying statements, I quote *in extenso* a letter written by Dr. Brown and published in the *Lancet* soon after the trial.

"Sir, I shall feel greatly obliged if you will kindly allow me to place before you the facts relative to this important trial, because I feel sure that the miscarriage of justice cannot wholly be attributed to my *contradictory evidence.*

On the evening of April 26 I was called to a Mrs. Sloman, residing at 8, Barnsbury Grove, who was reported to me to be dying. I went immediately. On entering the apartment of my patient, I found a young woman in attendance upon her. This young woman proved to be the daughter of the prisoner. I immediately inquired of this young woman what was the matter with Mrs. Sloman, and to my repeated inquiries I could obtain no answer. Finding it was of no use to waste time in questioning a person whose mouth was sealed, I directed my attention to my patient, who was suffering from the following alarming symptoms: A swollen body, tympanitic abdomen, quick pulse, 120, furred tongue, draining of blood from the uterus, and pain over the uterine

region; also from excitement of mind, and quick, hurried breathing. As soon as I could gain my patient's attention, she told me that she had had an instrument passed into the womb to procure a miscarriage, that she felt sure she should die, and that she must tell the whole truth about the matter. She then gave me the name and address of the person who had used the instrument, which I took down in the presence of the landlady of the house and the young person who was in attendance upon her. From the state of my patient, I at once formed the opinion that the uterus had been injured, and that I had a dangerous and difficult case to deal with. More than this, I felt it my duty to bring the case to the notice of the authorities.

On the following morning I called to my aid two medical men of great experience, viz., Mr. Morison, of 130, Offord Road, and Dr. Walker, Essex Road, Islington. These gentlemen visited the patient with me, and, I need scarcely add, coincided with my opinion. The landlady drew our attention to a fœtus of rather more than five months' gestation, which she had found wrapped up in a napkin, and placed on the hearth. From this date Mr. Morison and Dr. Walker attended the case with me, Mr. Morison visiting the patient with me in consultation three or four times a day, and Dr. Walker also saw the case with me six or seven times, to the termination of the case. Now, it is important to notice that not only were these gentlemen in attendance with me as medical advisers, but also as witnesses. Mr. Morison was with me when the poor creature entreated me to take down her dying statement, and during the time I was engaged in writing it; Mr. Morison also witnessed the statement.

Now I do not think it is necessary to occupy your valuable space with all the details of treatment. Suffice it to say, with day and night exertions on the part of my medical friends and myself, the poor creature lingered ten days in the most horrible sufferings, mental and bodily, I have ever seen, and died on Sunday evening about half past eleven o'clock.

The post-mortem took place on Tuesday morning, and was performed by Mr. Morison, Dr. Walker, and myself. The injuries to the uterus were of a most extensive nature: not only were the fibres of the uterus

lacerated, but the body of the organ had been punctured through, and blood was poured out into the cavity of the pelvis. The uterus and other pelvic organs were in a semi-gangrenous state. The poor woman had evidently died from the effects of the injuries she had received, which had produced inflammation of the uterus, and blood-poisoning—since the lungs and other internal organs exhibited complete evidence of the secondary effects of absorption of purulent matter into the system—and death by pyæmia.

You will perceive from the foregoing portion of the case that, with the exception of my first visit to my patient, I had taken to my aid two medical men of learning and experience, and I trust you will allow that in doing so I acted cautiously.

I now pass on to the trial, which came on on Saturday morning, the 15th instant, and perhaps I may here state that before the commencement of the sessions (April 10) I had been much weakened by a cold, which had affected my larynx so as nearly to take away my voice. I was indeed in no condition to attend at Court on Monday, the 10th instant, and during the five days I attended I gradually got so ill, owing to several causes—viz., hard work early and late to make up for loss of time, the vitiated atmosphere of the Old Bailey Court, loss of appetite, &c.—as to be quite unfit to give my evidence on the Saturday morning. As I ascended the witness-box, I felt quite giddy, and I am sure I should have fallen out of the box had it not been for the rail in front of it, which afforded me support. However, I have grave reasons to complain of the manner in which the case for the prosecution was conducted, and which may with truth be said to have been lamentably mismanaged. The counsel for the prosecution, Mr. Daly, a most gentlemanly man, had not received proper instructions, for he admitted in my hearing that he was not aware that there were two medical men in attendance at Court to give evidence in the case, viz., Mr. Morison and Dr. Walker. Had Mr. Morison been called as a witness, he could have satisfied the Court most thoroughly about the fact of the poor woman's knowledge of her death being near at hand. Mr. Morison could have told the Court that the poor creature had spoken to him about her children, and how

they were to be provided for; also how earnestly the dying woman desired her statement to be taken down, in order that it might prevent others from falling into the same terrible position into which she herself had fallen. But Mr. Morison was not called, nor was Dr. Walker. Why not? Even the nurse could have proved that the woman knew she was dying when she made her statement. If I had been at all well, I would have explained the words "as long as there is life there is hope"—words merely spoken by way of comfort to a dying woman. I took the pains to explain to the poor creature the nature of a dying statement: "That it was not only that we, her medical advisers thought, but that she herself must be fully convinced that all hope of life was gone." This explanation immediately preceded my taking down her statement. I feel that it should also be known that I sent for the magistrate to take down the statement, as I had no desire to take such an important duty upon myself. I also spoke to the magistrate upon the subject, and he told me that my taking it would answer the same purpose. We had abundant evidence in Court to prove our case; but it was, for some unaccountable reason, not called for.

The failure of justice in this case proves how much we stand in need of a public prosecutor, or of some legal assistance in criminal cases. The protection of society strongly demands such aid. It is quite enough for a medical man to speak to the medical facts of the case, and he ought not to be burdened with the office of prosecutor. The difficulties which attend the exposure of a foul crime tend greatly to close the eyes and ears of many professional men. That justice has erred in this important case from the want of legal assistance is the truth. I am, however, thankful that the error is on the merciful side.

In conclusion I can only assure you, Sir, that I have endeavoured to do my duty in a most difficult and trying case. In my examination I told the Court that we acted together, viz., Mr. Morison, Dr. Walker, and myself; but the hint was not taken, at any rate by our counsel, or it would have led to their being examined, and then the result would have been very different. I have to thank the above-named gentlemen most sincerely for their kind assistance in this case, for not only did they afford me

their counsel in the treatment of my patient, but they accompanied me to the Courts, viz., twice before the Coroner, three times at the Police Court, and the better part of six days at the Old Bailey.

Trusting that my statement will form a small plea for my shortcomings in the witness box,

Belitha Villas, Believe me, Sir,
Barnsbury Park, Your obedient servant,
Islington. AUGUSTUS BROWN, M.D.
June 25, 1866.

Dr. Brown's letter is of very considerable interest: (*a*) his conduct of the case seems to have been perfectly correct throughout; (*b*) he should not have attended Court if he was not fit to give evidence. He could easily have produced a medical certificate of unfitness, and he then would not have given his testimony in such a fashion that it appeared to be contradictory, and did not positively and definitely establish the fact that he had obtained a legal and correct dying declaration; (*c*) his observation that "these gentlemen visited the patient with me, and I need scarcely add, coincided with my opinion," is naïve; (*d*) his criticism of the conduct of the case by the authorities would probably have been refused publication at the present time; (*e*) his observations on the necessity of having a public prosecutor were called for. At that date, 1866, there was no such official. An Act of Parliament was passed in 1879 appointing this officer.

In 1861 the Coroner for East Middlesex held an inquest concerning the death of Elizabeth Garrett, aged 34, at Bethnal Green. It was alleged that she had died as the result of an illegal operation performed by a surgeon named Vale. It was shown that instruments had been used and a verdict of wilful murder was returned against Vale. At the trial at the Central Criminal Court the Recorder called the attention of the jury to the fact that the evidence against the prisoner was in the main the statement made by the dead woman before her death. As a general rule the law would not give effect to any evidence except that which was given on oath by a witness, but in the event of a statement being made by a person who was at the point of death, the law made such

statement admissible, if it should appear that at the time it was made the party making it entertained a distinct belief that he was at the point of death and would not recover. A statement made under such circumstances was regarded by the law as being invested with a solemnity equal to that of a deposition made upon oath, and they would, therefore, have to consider whether it was established to their satisfaction that at the time the deceased made the statement referred to, she really believed she would not recover. Undoubtedly according to her declaration, the offence would appear to be clearly established, but he thought it right to state that it appeared the deceased imagined she was suffering from another cause and might probably have been under the impression that she would recover. If that were so, her statement would not be admissible. The jury having heard the charge of the Recorder and examined the evidence on which the Bill was framed, returned a true bill for manslaughter.

CHAPTER XIV.

ILLUSTRATIVE CASES.

In connection with the various Acts of Parliament which have been passed dealing with the crime of abortion some very interesting points arise, which, though not perhaps dealing solely with the offence, are germane to the subject. Many of the examples referred to are rather of historical than of present-day interest, as they occurred before the 1861 Act was in force.

Procuring of drugs to induce abortion, from which death resulted. Held to render the procurer an accessory before the fact.

In the case of Rex *v.* Russell, in 1832, the prisoner was tried for inciting Wormsley to murder herself with arsenic. Wormsley was about four months pregnant and died from arsenical poisoning. The arsenic had been given her by Russell to procure a miscarriage, and she knowingly took it for this purpose, in the absence of Russell. Russell's counsel urged that there was no evidence to prove that Wormsley was *felo de se*, and that the Act of George IV did not apply to a woman administering poison to herself, and that even if she had taken it knowingly and with intent to procure abortion, she was not guilty of any offence, and as there was no principal, there could be no accessory. The Judge held that there was *felo de se*, and that Russell was an accessory before the fact.

Procuring of drugs for the purpose of inducing abortion in a woman (found not to be pregnant) in whom death resulted from taking the drug. Conviction for manslaughter.

In the case of Regina *v.* Gaylor the prisoner obtained sulphate of potash and gave it to his wife so that she might procure abortion. She believed herself to be

pregnant, though as a matter of fact she was not. She took the sulphate of potash in the absence of the prisoner, and she died from the effects of the drug. He was convicted of manslaughter. Mr. Justice Erle reserved the following case:—"The prisoner was indicted for manslaughter. The facts were that his wife's death was caused by swallowing sulphate of potash for the purpose of procuring abortion. She believed herself to be pregnant, though in reality she was not. The prisoner purchased this sulphate of potash and gave it to his wife in order that she might swallow it for the abovementioned purpose, but he was absent at the time when she so swallowed it. For the prosecution, it was contended that the wife committed a felony in swallowing the sulphate of potash, and as death ensued therefrom, she also committed murder; that the prisoner was an accessory before the fact, to this felony, and to the consequent murder and might be tried, as the principal had been convicted under 11 and 12 Vic., ch. 36.1, and that although the evidence showed his offence was murder, yet that would support an indictment for manslaughter. Under my direction, the jury convicted. I reserved the following questions: (1) Was the deceased guilty of felony in administering sulphate of potash to herself for the purpose of procuring abortion, she being not pregnant? (2) Was the husband by his act guilty of felony, or an accessory thereto, he having been absent when she swallowed the drug? (3) If the husband was an accessory to the felony, was an indictment for manslaughter supported, it having been laid down that there cannot be an accessory to manslaughter? Can the indictment be supported under 11 and 12 Vic., ch. 36.1?"

Judgment was given supporting the conviction, but without reasons. It was undoubtedly affirmed on the ground that the prisoner instigated the woman to take the drug. In the course of the argument, Bramwell B. asked, "Supposing a man for mischief gives another a strong dose of medicine, not intending any further injury than causing him to be sick and uncomfortable, and death ensue, would not that be manslaughter? Suppose then another had counselled him to do it, would not he who counselled be an accessory before the fact?" And Erle, J. said, "The man was an accessory before the fact to the

woman taking the drug with the intent to procure abortion. This would, in my opinion, be murder if she died in consequence of taking the drug. The grand jury, however, found that it was manslaughter. If a man is indicted for manslaughter and it turns out to be murder, he may be convicted of manslaughter. I thought the prisoner was guilty of murder and might therefore be convicted of manslaughter."

PROCURING POISON FOR THE PURPOSE OF INDUCING ABORTION UNDER THREATS OF SUICIDE BY THE WOMAN FOR WHOM THE DRUGS WERE OBTAINED. ACQUITTAL.

The following case was reserved by Cockburn, C. J. "Francis Fretwell was indicted and tried before me at the last Assizes for the County of Nottingham for the wilful murder of Elizabeth Bradley. The deceased had died from the effects of corrosive sublimate taken for the purpose of producing abortion. The poison had been procured for her by the prisoner with full knowledge of the purpose to which it was to be applied. But there was ground for believing that the prisoner in procuring of the poison had acted at the instigation of the deceased and under the influence of threats by her of self-destruction if the means of procuring abortion were not supplied to her. She was a married woman living in service separately from her husband and had become pregnant by the prisoner. She had endeavoured to purchase corrosive sublimate herself, but the chemist to whom she had applied having refused to furnish it to her, she urged the prisoner to procure it. The prisoner was not present when the poison was taken. The facts in question occurred in the month of July, 1861, anterior to the coming into operation of the Act of 1862. The jury, upon question especially put to them by me, upon the evidence, expressly negatived the fact of the prisoner having administered the poison to the deceased or caused it to be taken by her. They found especially that the prisoner procured the poison and delivered it to the deceased with a knowledge of the purpose to which she intended to apply it, and that he was therefore accessory before the fact to her taking poison for the purpose of

procuring abortion. Upon this finding I directed the jury to return a verdict of wilful murder against the prisoner, reserving for the consideration of the Court the question whether such verdict was right in law. In giving such directions I acted in deference to the authority of the case of Rex *v.* Russell, but it appearing to me doubtful how far the ruling of the judges in that case that, if poison be taken by a woman to produce abortion and death ensues, the woman is *felo de se*, could be upheld, and still more so how far a man, accessory to the misdemeanour of a woman taking poison for the purpose of producing abortion, can properly be held to be accessory to the self-murder of the woman, if, contrary to the intention of the parties death should be the consequence, I have reserved the points for the consideration of the Court."

Erle, C. J. "The prisoner was convicted of murder, and the question for us is whether upon the facts stated he was properly convicted. The deceased, Elizabeth Bradley, was pregnant, and for the purpose of producing abortion took a dose of corrosive sublimate which had been procured for her by prisoner with a full knowledge of the purpose for which it was to be applied. In procuring the poison the prisoner had acted at the instigation of the deceased and under the influence of threats by her of self-destruction if the means of procuring abortion are not supplied to her. Then the case sets out the reason which caused the woman to be so desirous of preventing her state becoming known. The jury expressly negatived the fact of the prisoner having administered the poison to the deceased or caused it to be taken by her. But they found that he had delivered it to her with a knowledge of the purpose to which she intended to apply it, and that he was accessory before the fact to her taking the poison for the purpose of procuring abortion.

Chief Justice Cockburn then on the authority of Russell's case directed the jury to return a verdict of wilful murder against the prisoner and reserved the case for the consideration of this Court. Now upon the facts stated, the present case appears to me to differ materially from that of Rex *v.* Russell. There the prisoner finding the woman to be pregnant, of his own motion procured

arsenic, gave it to the woman and instigated and persuaded her to take it for the purpose of procuring a miscarriage, and the woman took it knowingly with the like intent of procuring a miscarriage and thereby caused her own death. The judges held it was a misdemeanour in her to take arsenic. Now there appears to me to be a very marked distinction between the conduct of the prisoner Fretwell, in this case, and the conduct of the prisoner Russell in the case I have already referred to. In the latter case Russell instigated and persuaded the woman to take arsenic. In the present case, the prisoner was unwilling that the woman should take the poison. He procured it for her at her instigation and under the threat by her of self-destruction. He did not administer it to her or cause her to take it, and the facts of the case are quite consistent with the supposition that he hoped and expected she would change her mind and would not resort to it. Then the case being distinguishable, it is unnecessary in this case to say whether the woman was *felo de se.* I am the more fortified in my opinion by looking at the late statute for consolidating and amending the law relating to offences against the person. (He referred to the 1861 Act). By Section 58 of the Statute any woman administering to herself poison with intent to procure miscarriage, and any person administering it to her or causing it to be taken by her with the like intent is guilty of felony. By Section 59 any one supplying or procuring any poison knowing the same is intended to be used with the intent to procure miscarriage is guilty of a misdemeanour. The crime therefore of procuring or supplying the poison is one totally different in character from that of administering it or causing it to be taken. My view is that the prisoner was not guilty of murder and that the conviction must be quashed."

The other Judges, Martin and Blackburn, concurred.

In the following case, the question whether the prisoner was guilty of murder or manslaughter was the main feature of interest. On November 20, 1900, Ernestine Katz, a midwife, was tried at the Central Criminal Court before Mr. Justice Darling, on a charge of having murdered a young woman named Kate Kennedy. The prisoner, a German residing at Whitechapel, was accused of performing an illegal operation on

the deceased by means of an instrument. The case for the prosecution was that the death of Kate Kennedy was occasioned by the operation which the prisoner was alleged to have performed upon her. Much legal interest was attached to the manner in which the depositions had been taken, and a long argument ensued, but the main question for the jury was whether the prisoner were guilty of manslaughter or murder. The defence was that whatever had been done was for a perfectly legal object and that no illegal operation had been performed. If, however, the jury did not take that view, it was argued that they ought to find a verdict of manslaughter. Mr. Justice Darling directed the jury on the law applicable to the case. It appeared that when the prisoner was arrested a number of documents were found upon her which showed that in 1897 at Berlin she was charged with procuring abortion and had absconded from her bail to this country. A verdict of manslaughter was returned. Mr. Justice Darling plainly intimated to the jury that he did not share their view.

It would seem impossible that the prisoner did not know that she was performing an illegal and possibly a dangerous act. If a person knowingly inflicts an injury upon another a felonious act has been committed. The assailant is liable for any result which may occur. If death ensues he or she can be tried for murder. In this case a verdict of murder seems to be the one which should have been found. She was sentenced to ten years penal servitude.

INDUCTION OF CRIMINAL ABORTION AT SIX MONTHS. CHILD, WHICH WAS BORN ALIVE, DIED IN A FEW HOURS. CONVICTION FOR MURDER.

The case of Ann West raised a very interesting point. It was held that if a person intending to procure abortion causes a child to be born at such an age that it cannot live, and it does not live, this is murder, though no bodily injury is inflicted on the child. At the trial of Ann West for murder it appeared that one, Henson, being with child, went to the prisoner and underwent an operation for the purpose of procuring abortion. The operation was repeated on several days and Henson was shortly after delivered of a male child, she then being about six

months advanced in pregnancy. The child was born alive but died about five hours afterwards. A medical witness said that there was no unusual appearance about the child and that it was a healthy one. Being born at that time of gestation, it was impossible that it could live any considerable length of time separated from the womb of its mother. The witness added, "Judging from the healthy appearance of the child I cannot suppose that premature delivery was spontaneous. The operations described by Henson would naturally and probably produce the premature delivery. It might be produced by a fall or any sudden shock received by the mother, but in this case I have no doubt it was produced by the acts of the prisoner." The indictment alleged that the prisoner forced her right hand up into the womb of Henson, and the report states that the operation was of the nature described in the indictment. Maul, J., told the jury that if a person, intending to procure abortion, does an act which causes a child to be born so much earlier that it is born in a state much less capable of living and afterwards dies in consequence of its exposure to the external world, the person, who by her misconduct so brings the child into the world and puts it thereby into a situation that it cannot live, is guilty of murder. The evidence seems to show quite clearly that the death of the child was caused by its premature birth: and if the premature delivery was brought on by the felonious act of the prisoner, then the offence is complete. If the child by the felonious act of the prisoner was brought into the world in a state in which it was more likely to die than it would have been if born in due time, and did die in consequence, the offence is murder: and the mere existence of a possibility that something might have been done to prevent the death would not render it less murder.

Drugs to procure abortion supplied to a woman who had no intention of taking them. Conviction of the prisoner.

The following (Regina *v.* Williams) deals with the procuring of drugs to cause abortion. Here it was decided that in order to constitute the offence of supplying a noxious substance with the intention that it shall be

employed in procuring abortion, within the meaning of the 1861 Act, it is not necessary that the intention of employing it should exist in the mind of any other person than the person supplying it. At the trial it was contended by counsel for the prisoner that there was no case against him, because, among other objections, it was necessary that the prisoner should know that the poison or other noxious thing is intended to be unlawfully used or employed with the intent to procure the miscarriage of any woman : whereas it was not intended, except by the prisoner himself, to be so used at all. The jury found that the woman did not intend to take the substance in question, nor did any other person, except only the prisoner himself, intend that she should take it. The jury found the prisoner guilty and the presiding Judge reserved the case.

Erle, C. J., in deciding the matter said : "The question asked is whether the intention of any other person than the defendant is necessary to the commission of the offence made punishable under the statute. We are all of the opinion that the question should be answered in the negative. The statute is directed against the supplying of any substance with the intention that it should be employed in procuring abortion. The person supplied the substance and intended that it should be employed to procure abortion. He knew of his own intention that it should be so employed and is therefore within the words of the statute as we construe them. He is also in our opinion within the mischief of the statute and ought to be convicted ; that is our quest and that is our answer."

Cases in which the chief legal point was "Was the drug administered noxious ?"

The question as to whether a drug is noxious or innocuous is important. Upon the trial of an indictment under Section 59 of the 1861 Act it is necessary to prove that the substance supplied is noxious. The supplying of an innocuous drug, whatever may be the intent of the person supplying it, is not a crime. In Regina *v.* Isaacs, Pollock, C. B., said: "A mere guilty intention is not sufficient to constitute a crime. There must be intent coupled with an overt act tending to the perpetration of

the crime. The administration of pure water is no offence within the section under which this woman was indicted." In this case the surgeon testified that a thing otherwise of a perfectly harmless character may be noxious by exciting the imagination of a woman and thereby producing abortion. But the case clearly decides that under this Section it is not sufficient that the defendant merely imagined that the thing administered would have the effect intended, it must appear that the drug administered was either a poison or a noxious thing. (For a fuller exposition of this point *see* R. *v.* Brown, chap. xii.)

In a trial at the Exeter Winter Assizes, 1844, the following facts were proved. Two powders, each of one drachm, were prescribed by the prisoner; one consisted of colocynth, the other of gamboge, and with them was half an ounce of balsam of copaiba. They were to be mixed together and a fourth part to be taken on four consecutive mornings. A doctor said in answer to the question whether such a mixture was noxious or injurious, that each dose would be an active purgative, and might thereby tend to produce abortion. One dose would not be productive of mischief in a healthy countrywoman but its frequent repetition might lead to serious consequences in a pregnant woman.

In Reg. *v.* Whisker, Norwich Lent Assizes, 1846, it was proved that the prisoner had caused to be taken by the prosecutrix a quantity of white hellebore, in powder for the purpose of procuring abortion. One medical witness said he considered hellebore to be noxious to the system, but he knew of no case in which it had produced death, and under the circumstances he did not consider himself justified in calling it a poison. Another medical witness stated that in his opinion it belonged to the class of poisons. The judge in his summing up told the jury that that was to be regarded as a poisonous drug which in common parlance was generally understood and taken as such. He thought the medical evidence sufficiently strong to bring hellebore within the meaning of the statute. The jury found the prisoner guilty, alleging that in their mind white hellebore was a poison. As a fact, several deaths have been recorded from the administration of this substance.

In Reg. *v.* Taylor, Exeter Winter Assizes, 1859, some

powders were given by the prisoner to a girl to procure abortion. None of the powder could be obtained for analysis. Two medical men who heard the evidence stated that in their opinion the powders were noxious. The defence urged that this had not been proved by an examination of the powders, and the jury took the view that the noxiousness of the substance had not been demonstrated and returned a verdict of not guilty.

In Reg. *v.* Wallis, Winchester Autumn Assizes, 1871, Brett, J., in addressing the Grand Jury, said he wished to call their attention to the words of the Statute (i.e., the 1861 Act) which says that where any person shall unlawfully administer a poison or some other noxious thing or shall unlawfully use any instrument, or other means whatsoever, with intent to procure miscarriage, he shall be guilty of felony. The learned Judge said that having regard to the words, "other means whatsoever," though there might be some doubt as to the construction of the Statute, he should direct that on one count of the indictment the word noxious should be omitted, and he should hold that if the person accused did administer some drug or something which he had thought would procure miscarriage with that intent, although the thing itself would not procure that miscarriage, he would nevertheless be guilty of the offence and they should bring in a true bill. This appears to contradict the rulings on following cases.

CASES WHERE THE MEANING OF THE WORDS "QUICK WITH CHILD" WAS THE IMPORTANT POINT.

The meaning of the words "quick with child" were very important under the old Acts. At the present time it is no longer necessary to consider them. It was a very old controversy among the philosophers and physicians of antiquity when the fœtus ceased to be *pars viscerum matris*, and became "vital," or as it was afterwards called, "animate." Galen fixed forty days after conception as the beginning of life, the Stoics did not recognize life as commencing until the child was born. Hippocrates fixed the thirty-second day for boys and the forty-second for girls, on what ground it is impossible to imagine. But to-day both doctors and lawyers are agreed that

the ovum is a living thing from the moment of impregnation.

In an investigation before a jury of matrons (Regina *v.* Wycherley, 1838), Mr. Baron Gurney said, "Quick with child means having conceived. With quick child means when the child has quickened." But this distinction is not generally recognized. Chief Justice Green of America, in a case tried there in 1849, said, "There is no foundation whatever for this distinction. The ancient authorities show clearly that the terms are synonymous, both importing that the child had quickened in the womb and that the period had arrived when the life of the infant, in contemplation of law, had commenced."

In R. *v.* Cramp at the Kent Assizes 1880, a prisoner was indicted for administering a poison or other noxious thing to a woman with intent to procure abortion. The noxious thing given was half an ounce of juniper oil. The jury found the prisoner guilty and the question of the meaning of a noxious thing was reserved for the consideration of the C.C. for Cases Reserved. The matter had been previously raised in respect of cantharides, which in that case had been given in exceedingly small doses. Lord Cockburn and Mr. Justice Hawkins decided that the cantharides was not a noxious thing on the ground that not enough of the drug had been given to do any harm. The question before the Court in the Cramp case was: Must the drug be injurious or noxious in itself, and not merely when administered in excess? The Court decided: That in each case it was a question for the jury to say whether the substance administered, as it was, and under the circumstances in which it was administered, was a noxious thing. Therefore neither principle nor authority preclude us from holding what is certainly good sense, that if a person administer, with intent to produce miscarriage, something which if as administered is noxious, he administers a noxious thing.

The case of Dr. Todd of Glasgow is a good example of the professional abortionist brought eventually to book. In the High Court of Justice, Edinburgh, in June 1912, Dr. George Bell Todd of Glasgow was tried on an indictment in which there were eighteen charges of procuring abortion, and one of murder. He pleaded guilty to four charges. His counsel, who addressed the Court in mitiga-

tion of sentence, pointed out that in all four charges to which the accused pleaded guilty the women were married and at least three of them had gone to Dr. Todd with their husbands entreating him to perform the operation. Dr. Todd had held a good position in Glasgow, and as the result of this case his name would be removed from the Medical Register, and he would no longer be in a position to earn his living by practising his profession. The presiding Judge, Lord Guthrie, said that although he had listened with great attention to what had been said by counsel, he had great difficulty, although he had been anxious to find them, in seeing any circumstances which could properly be called palliative. He could not accept the contention that because the women were married and accompanied by their husbands, that was palliation. This case was not an ordinary one. So far as was known, this was the first case he was glad to say of a medical man being sentenced for this offence in Scotland. He thought he would be doing his duty in the interests of the State, in the interests of such wretched women as had been concerned and in the interests of the noble profession which the prisoner had dishonoured, if he imposed sentence of seven years penal servitude. This was a very light sentence considering the fact that one death had resulted from the fourteen discovered cases in which this man was concerned.

CHARGE OF MURDER BY PROCURING ABORTION. ACQUITTAL. SECOND CHARGE OF USING AN INSTRUMENT TO PROCURE ABORTION. CONVICTION.

At the Liverpool Assizes held in February, 1918, Annie Houghton, aged 50, was charged with the wilful murder of Mrs. Lamb by procuring abortion on her which ended in her death. She was acquitted by the jury, but the next day was charged on the second count of the indictment, namely, that of using an instrument with intent to procure miscarriage. The acquittal on the first charge was probably due largely to the fact that two months had passed since the passing of the instrument and the death of the woman.

Mr. Hemmerde, in opening, spoke of the seriousness of the charge, and said it was not a case where

an unmarried girl was in trouble and had sought the assistance of someone prepared to help her in her trouble. It was that of a young married woman, now dead. She would have been the most important witness the prosecution could have called. Within two months of the alleged offence she died, and therefore the jury would have to make up their mind to some extent upon evidence that was not direct, but was rather suggestive: he thought they would find, when they had an opportunity of piecing together the evidence that made up the case for the prosecution, that there would be very little doubt in their minds that the offence had been committed.

On October 15, 1918, the deceased woman left her house, well in health, and returned later in the day not at all well, but evidently in pain. Her husband was in the Army and away, her niece was living with her and would prove the condition she was in on the 15th, and the condition when she returned from her visit to Houghton. Apparently on that night she was in great pain. The next day late in the afternoon, her niece assisted her to go to the house of Mrs. Houghton, because she was unable to go there alone. Deceased went in, while the girl waited outside. After a few minutes Mrs. Lamb came out, spoke to her niece, and still leaving her outside, went in again, and stayed a considerable time. She ultimately came out once more, and had to be assisted home in great pain, stopping frequently before she reached there. She had been perfectly well before this day, and on the night of the 16th she retired to bed and remained there for some days without seeing a doctor.

On the 26th her niece went to the house of the prisoner, saw her and said to her: "Mrs. Lamb wants you to come and see her at 71, Greenfield Road. She does not want to send for a doctor, and you know she has been here for an operation." No comment or denial of any sort was made by Mrs. Houghton. All she said was "Yes: I will come." She went to the house at 6 o'clock. When she got there she saw Mrs. Farnell, the sister of Mrs. Lamb, and said "I am Mrs. Houghton. Mrs. Farnell replied, "You are the woman who has had to do with my sister. Do you know Mrs. Lamb is very

ill? We shall have to send for a doctor." There was no denial or qualification by Mrs. Houghton of the first remark. Apparently she accepted it. As regards the remark "We shall have to send for a doctor," Mrs. Houghton said, "You may." Mrs. Houghton, who had been asked to come to the house to see Mrs. Lamb, went away without seeing her, because she was told there was someone else upstairs with her.

If everything were all right, and if nothing improper or illegal were being or had been done, it seemed rather difficult to imagine why she should have come to the house after being specially summoned and then gone away without seeing Mrs. Lamb, unless there was someone upstairs whom she preferred not to see. She went away but not before the woman coming downstairs had recognized her. There was also no doubt she went again the next day, the 27th. By this time the husband of the deceased, who was in the Army, had been summoned home on account of the serious condition of his wife. He was with her when Mrs. Houghton called; she went upstairs and said to him that she wanted him to leave the room so that she might examine his wife. Mrs. Houghton was the wife of a druggist with no medical qualifications or experience. Why, if she had not been doing something to this woman she should have wanted to examine her, he did not know, or why if the prisoner was not attending to Mrs. Lamb in some way she ever went to the house. The husband would tell the jury that when Mrs. Houghton had examined the wife she came down and he said, "What do you think is the matter with her?" she replied, "I think she is all right; they are generally all right in about four days."

Mrs. Lamb died under circumstances that the doctor would say were exactly consistent with the fact that an illegal operation had been performed. The septic condition of the patient was certainly consistent with the fact that dirty instruments had been used to perform the operation. The medical evidence, though not proving absolutely that an illegal operation had been performed, was consistent with this view. When the police visited Mrs. Houghton, she told them she knew no one of the name of Mrs. Lamb.

Witnesses were called to prove counsel's opening

statement, as to the visits of Mrs. Lamb to Houghton, and the return visits of the latter to the deceased, and the conversations which had taken place.

The Chief Constable naturally attached much importance to the finding of the instruments used by Houghton, and had detailed police officers to search the house for them. A very thorough investigation was made but none were discovered. Inspector Bowden (now of the Hove Police Force) related to me how eventually he traced them. He was standing in the kitchen with Houghton and her son, completely nonplussed after the failure of the search, wondering what next to do. Houghton's son asked his mother if he should make some tea. She agreed, and he then lifted up a teapot and walked into the scullery. At the same time he took up a basket containing blacklead brushes and similar articles. This he threw on the ashpit. Inspector Bowden thought this was a peculiar action, and recovered the basket. He had a good look at it and its contents, but found nothing suspicious. Not satisfied, he looked once again, and discovered interlaced among the basket work at the bottom several dirty catheters. This find was of considerable importance in the conviction of Houghton.

The prisoner did not go into the witness box, and no evidence was offered for the defence.

Mr. Singleton, counsel for the prisoner, at once submitted to his Lordship that there was no evidence of any illegal operation having been performed. He did not seek to justify the commission of an illegal act. It was a serious crime, but the jury must be satisfied that there was evidence of it on which they could safely act. He took his stand on this ground, that there was no evidence, however much suspicion there might be in their minds, on which they could safely say that on October 15 or 16 an illegal act was performed. Even if they thought one had been performed, there was no evidence to show that this woman had committed it.

On what did the case rely? That on October 16 this woman went with her niece to the shop of Mrs. Houghton. If an illegal act was performed, was it performed then or not? That was the only evidence they had with regard to it. If it had been performed before, there was no reason why she should have gone back to

Mrs. Houghton's shop on the 16th. On that afternoon Mrs. Lamb was very ill and had some difficulty in getting to Mrs. Houghton's. Something was altogether wrong in her condition then. It might be said that there was some corroboration that an operation had taken place from the fact that Dorothy Lamb some ten days later went to Mrs. Houghton's shop and said something about Mrs. Lamb having been there for that purpose. But that was on October 26. Could that girl now remember definitely what was said by her then and what was said by Mrs. Houghton? He submitted that she could not. The same applied to Mrs. Farnell, who was supposed to have said: "You are the woman who has had to do with my sister." How could she remember at that distance of time what she had said? Dealing with the matter of accomplices in an illegal act, Mr. Singleton urged the jury that they must be very careful in accepting such evidence. He submitted that there was no evidence except the evidence of accomplices. Did they think that these people, relations in the house, did not know what was going on? If they did know they become accomplices in the commission of a crime. There was no direct evidence, and the only evidence of suspicious circumstances was that of accomplices. It was not sufficient to bring forward a bundle of instruments, and say that they were found in the house. So long as there was only a case of suspicion, so long as there was a case on which the medical evidence and the condition of the woman was as consistent with one thing as another, they would be running a very great danger in convicting. So long as the case remained there, in his judgment, as defending the prisoner, he would not take the responsibility of putting her into the witness box. On these self-same facts this woman had been tried on a more serious charge. There was no new evidence. They knew she had been acquitted on the more serious charge. It would ill become him to criticize the acts of the Crown in this case; but if the view of their doctors was that death was caused through this illegal act, then they had been dealt with. How could this jury convict on the same unsatisfactory evidence as that of the previous day? The one thing to a large extent judged the other. Some might think it suspicious that Mrs. Houghton went to

Mrs. Lamb's house when there was nothing between them, but he asked them to bear this in mind that in a place like St. Helens it probably was not altogether unusual that if somebody had a minor ailment they went down to the chemist's and asked the chemist's wife what could be done for them. If a woman had a pain in her side was it altogether unusual and improper for the chemist's wife to be asked, "What do you think she should do?"

The case rested merely on suspicion, and there was no evidence of any operation, no corroboration of it even if there was any evidence. There were a number of suspicious circumstances in the case, but they must not convict in criminal cases on suspicion.

His Lordship, in addressing the jury, said there had been a good many references to the trial of another indictment against this prisoner on the previous day, but that should be put out of their minds. The offence was alleged to have been committed on October 15 or 16, and the death of Mrs. Lamb did not take place until December 9. Although the present indictment was a serious one, it was much less serious than murder or manslaughter. The question in this indictment was, did she or did she not use an instrument on Edith Lamb with intent to bring about a certain result? Their duty was to apply their minds to that question only, and to see whether they were satisfied on the evidence placed before them.

The woman who was dead was of course an accomplice, if this offence was committed. The question might also arise in their minds whether one or more witnesses were also accomplices. It might arise in the case of the niece, Dorothy Lamb. And again, with regard to the husband: but he did not think there was any evidence to justify them in saying the husband was an accomplice. He could not see any evidence to justify them in such an assumption in the case of Mrs. Farnell. If any of these witnesses were accomplices they had to bear in mind that the evidence of an accomplice should not be relied upon unless there was corroboration. There was corroboration in the case of Mrs. Farnell; there was corroboration in the visits of this woman to Mrs. Lamb's house. There was corroboration in the

instruments found in the house. Therefore, there was undoubtedly corroboration, and they were entitled to accept the evidence of Dorothy Lamb for the prosecution if in their opinion it was corroborated.

The evidence in this case was, of course, what was known as circumstantial. They did not expect anyone to say, "I saw it done." In many other cases the woman upon whom the operation was performed was a witness for the prosecution. Here no such evidence was available. Circumstantial evidence might be, in many cases it was, exceedingly powerful. It was for the jury to make up its mind about it in this case.

His Lordship then reviewed the evidence given in the case. "Does it strike you as strange that when Houghton went to see Mrs. Lamb she did not see her but went away? Why should she go away if everything was all right? Then there was the remark of the prisoner 'They are usually all right in about four days.' Why should she send the husband out of the room? The evidence of the post-mortem was much less important in this case than in the first trial. They were only concerned with the post-mortem evidence in so far as it threw light on the question, was an illegal operation performed on October 15 or 16? What was found was consistent with that. Professor Glynn said it was more consistent with that than with some other cause. He did not think they could put it higher than that. She was not guilty unless she intended to procure the result, but one could not very well imagine what other intention she could have.

"The prisoner has not thought fit to throw any light on this matter by giving evidence herself. She is in no way bound to. She has not thought fit to give any explanation of the two visits of Edith Lamb, or the possession of the instruments, or the conversation Mrs. Lamb's sister had with her, or whether the husband is right as to his having been sent out of the room. You do wrong if you say to yourselves whilst the prisoner has not explained these matters, she is guilty. The absence of Houghton from the witness box in no way relieves the prosecution from the duty of proving their case. In estimating the effect and weight of evidence, it must be borne in mind that the prisoner has not thrown any light on these matters."

The jury were absent only a few minutes, and returned a verdict of guilty. A previous conviction for a similar offence in 1911 at Liverpool was admitted by Houghton. Chief Inspector Roe was called and stated that the prisoner was the daughter of a farmer, and many years prior to her marriage was a barmaid to an aunt who kept a public house. Her husband, a druggist, had two shops. One was managed by the prisoner who, in addition to selling patent medicines, sold preventatives of various kinds. In 1909 she was acquitted at the Liverpool Assizes on a charge similar to this, but on another like charge in 1911 she was sentenced to three years penal servitude. She had been known to the police in St. Helens for some time thriving on this nefarious calling, but they had experienced great difficulty in getting the necessary evidence.

His Lordship : " How long has she been a professional abortionist ?"

Inspector Roe : " About ten years."

His Lordship passing judgment said: "Annie Houghton, you have been rightly convicted by the jury on this charge. Fortunately for you another jury were not satisfied that you had caused the woman's death. You are a regular professional abortionist. You have already suffered three years penal servitude for this crime, but it has not deterred you from continuing this practice. You will be kept in penal servitude for six years."

CHAPTER XV.

ABORTIFACIENT ADVERTISEMENTS.

THE trade in abortifacients is still carried on openly and shamelessly. The law appears to be more or less powerless to interfere. Advertisements are to be found in the more disreputable papers, offering for sale pills and potions for "regulating female disorders" or "the relief of female obstructions." They are addressed to "married and single ladies," and their purport is unmistakable. Alleged testimonials which accompany the advertisements or the medicine suggest quite plainly the object of the remedies.

"Everything came all right in twelve hours and, contrary to my expectations, there was no pain or sickness."

"Your invaluable remedy took immediate effect, and in less than twelve hours I was all right, after eighteen weeks of misery and hopelessness."

Women are urged to write privately with full hope and confidence and are assured that failure is impossible.

The meaning of all this is clear. The suggestion throughout is that the remedies advertised are abortifacients.

For many years the majority of reputable papers have refused to insert this kind of notice, but they are still common in the low-class newspapers and magazines. Even now, in some cases, journals which have a reputation for respectability allow these advertisements to be published. In a recent issue of a well-known religious periodical there appeared thirty-six notices of quack remedies, including one of abortifacient pills. It is the religious papers which are perhaps the greatest sinners in respect of quack remedies. They appear to be the home of such advertisements.

The prices charged for these nostrums are very high.

At one shop the pills were offered at 10s. per box. The cost of them was a few pence only. "Double strength pills," suggesting special potency, were offered at 20s. a box. In a low-class chemist's shop close to Charing Cross Station, I saw recently "Dr. . . . celebrated pills. For irregularities only." They were priced 3s. and 5s. a box. All of these are, in the main, composed of a vegetable aperient or other harmless drug, and are quite useless for the purpose for which they are suggested.

The legal position is unsatisfactory. The Indecent Advertisement Act does not touch the matter. It deals for all practical purposes with venereal diseases only. If the drugs were openly sold as abortifacients and were capable of producing abortion, the 59th Section of the 1861 Act would be applicable and convictions would be easy. ("Whosoever shall supply any poison or other noxious thing . . . with the intent to procure miscarriage . . . .") But they are not sold thus openly. Everyone knows what is meant when "female irregularities" are referred to, but such an expression is not an open reference to abortion, and most of the drugs have no noxious action.

In 1905 the British Medical Association, after consultation with the Coroners' Society, the Pharmaceutical Society, and the Council of Public Morality, addressed a letter and memorandum to the Home Secretary, urging the necessity for amendment of the Indecent Advertisement Acts; subsequently it was decided to support a Bill for this purpose to be prepared by the London Council of Public Morality. In 1908 a Joint Committee of both Houses of Parliament (the Lotteries and Indecent Advertisement Committee) was appointed. The Joint Committee recommended, among other things, that the advertisement or sale of drugs or articles designed for promoting miscarriage or procuring abortion be made illegal. A Bill was introduced by Lord Braye, but was dropped. Again, in 1918, steps were taken to ensure the inclusion in the Criminal Law Amendment Bill of a clause to prohibit the sale and advertisement of abortifacients, but again the Bill was dropped. It is difficult to get any Government to find time for reforms which to most of us appear of considerable importance.

The General States of Massachusetts have set us a good

example in the following simple enactment: "Whoever knowingly advertises, prints, publishes, distributes or circulates, or knowingly causes to be advertised, printed, published, distributed or circulated, any pamphlet, printed paper, book, newspaper, notice, advertisement or reference containing words or language giving or conveying any notice, hint or reference to any person, or to the name of any person, real or fictitious, from whom, or to any place, house, shop or office where any poison, drug, mixture, preparation, medicine or noxious thing, or any instrument or means whatever, or advice, direction, information or knowledge may be obtained for the purpose of causing or procuring miscarriage of any woman pregnant with child shall be punished, &c."

In Queensland there is in force an Act of Parliament, the Immoral Advertisements Act, which has had the effect of ending the advertisements of abortionists and other indecent quacks.

The recent case of the Rev. Francis Bacon is an example of the trade in abortifacients which is probably without parallel. Bacon, who was acting as Vicar of All Saints, Spitalfields, and who had a fine record among boys in the East End of London, entered into partnership with a man named Carlton, who was a trader in abortifacients. The concern proved very profitable and two others were started, one advertised under the name "Dr. Mary Lane" and the other "Hannah Brown, Ph.D.," the promoters employing a manageress, Annie Bolton, daughter of a chimney sweep. The activities of the firm were brought to the notice of the police. When criminal proceedings were begun Carlton escaped to Bermuda, but Bacon and Bolton were charged at the Old Bailey with conspiring to supply noxious drugs to women knowing that they were to be used with the intent of procuring miscarriage. "Dr. Hannah Brown's female remedies" were classified under three heads. No. 1 treatment was 5s., No. 2 was two guineas, and No. 3 was five guineas. The actual cost of the drugs used was a few pence. Sir Wm. Willcox and Dr. Donaldson described the effect of the cumulative treatments as likely to produce abortion.

The cross examination of Annie Bolton showed beyond doubt what was the real object of the business. Bacon

and Carlton had said to her that it was breaking the law to send the treatment to pregnant women, but at the same time they drew a distinction between pregnancy of a few weeks and of some months. A stock letter was sent to all customers stating that the treatment was not for women who were pregnant, but quite a number of the women who did write for treatment said they were in the early stages of pregnancy. They were supplied with the remedies and Bolton unhesitatingly agreed with the cross-examining counsel that the stock letter was "eye-wash." Bolton's frank admissions forced her counsel to withdraw her plea of not guilty. Bacon tried to throw the whole blame on the woman Bolton. The stock letter, he said, was not "eye-wash." Such a warning that the treatment was not for pregnant women was not an incitement to them to take it, and it was contrary to his intentions that Bolton sent the treatment to such women. He admitted he had had no medical training. Why he chose the name of Hannah Brown was because it was a good old family name, suitable for the business. Bacon was subjected to searching questions by the Recorder on the use of degrees. His counsel had said that he was given the LL.D. in Canada, and the D.D. in the United States. In reply to the Recorder, Bacon said he had used the business name of Hannah Brown, Ph.D., not to deceive the public but rather to attract them. Admittedly it was a false statement. Strictly, he supposed a description of himself on a pamphlet as Howard Brown, D.Sc., was a lie too, but it was the ordinary commercial morality. The jury found him guilty and he was sentenced to fifteen months in the second division. Bolton received six months. The Recorder described the conduct of Bacon as despicable and deplorable. Concealing an illicit traffic under the cloak of hypocrisy, Bacon had made money by preying upon the agony of expectant mothers, jeopardizing their health. A preacher of the Gospel, he had pleaded commercial morality as an excuse for deceiving the public, and most contemptible of all, he had sought to shield himself behind an employée.

In the Report of the Select Committee of the House of Commons on Patent Medicines appears the following:

"The Trade in Abortifacients."

"The trade in abortifacients presents one of the most deplorable aspects of the secret remedy trade. Innumerable remedies for 'female irregularities' are advertised. A few of these are poisonous and have caused death, whilst most of them are wholly inactive for the purpose for which they are sold. Indeed, it cannot be too widely realized that no drug is known which can force the womb to expel its contents, and that nothing can endanger the life of an unborn child except by endangering in an equal degree the life of the mother. But a substance of the latter class is widely sold and used in certain parts of the country as an abortifacient. That is 'diachylon plaster' the emplastrum plumbi of the Pharmacopœia, a preparation of lead oleate containing 28·9 per cent. of oxide of lead, supposed to be a mild astringent for application to inflamed surfaces. One medical witness expressed to us the opinion that for all practical purposes it is practically useless. But it is undoubtedly widely taken as a supposed abortifacient in the form of pills like 'Mrs. Seegrave's pills,' or merely a bit of the plaster rolled up and swallowed.

Many deaths from the use of this substance for this purpose were reported to us. It can, of course, only produce abortion by producing lead poisoning, from which insanity, blindness, paralysis, and death have resulted. The Pharmaceutical Society have for years vainly urged its inclusion in the Schedule of Poisons. The question of the total prohibition of its sale should be considered by the competent authorities.

Blackmail is a natural result of the sale of abortifacients. In 1898 two brothers named Chrimes were sentenced to penal servitude for demanding, under threats of exposure, two guineas from women who had purchased their drugs. The police intercepted in a short time no fewer than six hundred letters each containing two guineas.

Even simple aperient pills from reputable makers are recommended in language suggesting that they are efficacious for this particular purpose. In the instructions headed 'Advice to Females' accompanying Beecham's Pills, women suffering from 'any unusual delay,' are recommended to take five pills a day. The proprietor

admitted in evidence that the most common cases of such delay was pregnancy."

Some thirty years ago, the *Lancet*, alarmed at the very large number of notices of drugs obviously meant as abortifacients which were constantly appearing in papers and magazines all over the country, investigated the whole subject very fully and published many important articles on the matter. They were able to show that throughout the kingdom, especially in the provinces, there were papers which were openly and constantly inserting advertisements inviting women to purchase nostrums for removing "irregularities," "suppressions" or "obstructions." These irregularities, suppressions and obstructions obviously referred to monthly periods, and, as is well known in the ordinary woman up to the age of 48, by far the most common cause of these irregularities is pregnancy.

The following are typical advertisements taken from various journals at that time :—

"Ladies, consult Madame Wood, Lady Specialist on all female ailments, irregularities and obstructions, however obstinate. Save Time, Trouble and Expense by consulting an Experienced Specialist *at once*. My remedies are the most powerful and strongest on earth, effectual after all others have failed. May be taken by the most delicate. . . . Price of mixture, 4s. 6d.; extra strong, 11s.; secretly packed. . . . Preston, Lancashire."

"Ottey's Strong Female Pills quickly and certainly remove all OBSTRUCTIONS arising from any cause whatever, where Steel and Penny Royal fails. Invaluable for married women. . . . Birmingham."

"Apiol and Steel Pills for Ladies. A French remedy for all irregularities. . . . Southampton. Price 4s. 6d., post free."

The next advertisement is of considerable interest, if for nothing else as showing the appalling ignorance of the proprietor of the nostrum.

"Married and single Ladies should send at once for FREE ADVICE of Priceless Value. Address in confidence Professor Leslie, 34, George St., Chester."

A first letter sent to the "Professor" asked for advice and price list. This produced the following reply: "Dear

Madam, Yours to Hand in reply I Enclose you my Price Lists, &c., should you Require my Remedies I should strongly advise you to try my 10s. 6d. mixture although the 4s. 6d. Package is very good in slight causes. Will you kindly favour me with a few Particulars I should then be Better able to advise you Which Would be Held in strict Confidence."

A second letter was written to the "Professor" enclosing 10s. 6d. and asking for a bottle of remedy, the writer being represented as being probably three months with child. In reply, no bottle of medicine was received but the following illiterate communication: "Dear Madam, Yours to Hand with 10s. 6d. Enclosed I am sorry things are so far gorn I am afraid this wont do But why not try a Larger Case You know things are gorn. But still not to Late I should recommend you a Larger Case it Whould Be More Certain that is I should send you four Large Bottles for 30/1/6 thirty-one Shillings and Six Pence it Whould be certain and Cheaper as by Having the four you Whould Be saving the 10/6 Now Just consider this Over as you cannot Let things go much further it Whould be to Late if you Decide to Place your Case in my Hands send the Postal for £1 1s. 6d. one pound one and sixpence I will then send You four Large Bottles that Whould Be More Certain to act. Of course if you only wish the 10/6 Bottle I can send it On at Once. But I should strongly recommen you the Larger Case. Will you at the Same time Kindly inform me when Writing if you are married or single and what age are you &c. so that I can Better understand your Case I may mention that all Letters sent to me are strictly confedental

"Awaiting your Reply
"Yours faithfully,
"J. LESLIE."

"*P.S.*—Do you think you could Pay me a visit if so kindly say as I take an interest in all my clients and will endovor to Do my Best for you My 10s. 6d. bottle is very strong But I am afraid the one won't Be enough But four will be certain in any case."

A further letter was sent to the effect that the person wanting the remedy was 30 years old and married. Professor Leslie replied as follows :—

"Dear Madam, Yours to Hand with Postal Order Enclosed, By Return I am forwarding you a package of My remedies as I Have Made the two Bottles into One the remainder of the remedy I shall send you On Tuesday, I am sending them this way so that it will arrive safe to you through the Post and not Look to Bulky as I think it will Be Best Kindly Let me Know when you are well again.

"Yours Faithfully,
"J. LESLIE."

An analysis of the medicine sent showed that it was a mixture of senna and rue tea.

The next advertisement quoted is of interest on account of the legal proceedings which took place in connection with it.

"To Ladies. Especially to those who require a Safe and Speedy remedy for all Irregularities, a Remedy which in thousands of cases has afforded COMPLETE RELIEF, generally in a few hours. No lady need despair, as the most obstinate and hopeless cases have been immediately relieved. . . . The medicine is not expensive, as one bottle at 4s. 6d. is generally sufficient . . . IMPORTANT WARNING. This marvellous preparation HAS THE LARGEST SALE OF ANY FEMALE MEDICINE IN THE WORLD, a success achieved by MERIT ALONE. It is pleasant to take, perfectly harmless, but CERTAIN IN ITS ACTION, and readers are CAUTIONED against worthless and injurious imitations. Conclusive proof gladly forwarded to any lady on receipt of addressed envelope gratis and post free. It will cost you nothing and SUCCESS BEING GUARANTEED, it may save you from a life of misery and bitter disappointment. . . . Write at one to Mrs. M., 145, Stockwell Road, London, S.W."

This firm brought an action against a paper to compel them to insert their advertisements. The newspaper had changed hands, and the new proprietors found themselves under contract to publish the above advertisement for which payment had been made in advance. This they declined to do and the vendor of the nostrum sought to recover not only the money he had paid but damages also for the non-insertion. The defendants paid money into court, denying liability and pleading that the advertisements were of an illegal and immoral nature. Mr. Justice

Darling put the question to the jury thus: "It was said that the advertisements were of an illegal and immoral nature and if the contract to insert them was of that nature the money the plaintiff had paid could not be recovered back. The question was: Was it intended by the advertisement to convey that the medicine would procure miscarriage or abortion? To procure abortion or to attempt or counsel, or to assist to procure it was a criminal offence and therefore you would expect any advertisement relating to it to be in very guarded terms. If the advertisement advised the taking of something for the purpose of procuring abortion it was undoubtedly forbidden by law." The jury found upon this question that the contracts for the insertion of the advertisements were immoral and judgment was given for the defendants.

The wretched quacks who trade in these advertisements are usually of a very low type. Having obtained the names of those who use their nostrums, they may start blackmailing their victims. The case of the infamous Chrimes brothers who were tried for blackmail at the Old Bailey in 1898 before Mr. Justice Hawkins is a good illustration of this kind of rogue.

In passing, it may be noted that this was the last appearance of Sir Henry as a judge at the Old Bailey, and in the opinion of those who were present, he never conducted a trial with greater ability during his long occupancy of his position as a judge.

The facts of this case are remarkable. Three brothers named Chrimes had for some years been carrying on a trade in abortifacients, described by them in the ordinary terms as "miraculous" and "irresistible." But not content with the large amounts they made by the sale of their "remedies," they attempted, successfully, to add to their ill-gotten gains. The names and addresses of those who applied for their remedies were all noted, and in a little over two years they had obtained 12,000 victims.

In October 1898, they sent out to some 10,000 women a letter stating that the writer, "a public official," was in possession of evidence that the recipient had committed the awful crime of preventing the birth of a child, that legal proceedings had commenced, and that she would be arrested in a few days unless she sent the sum of two guineas, in postal orders, not cheques, to the "public official" to cover costs.

Copies of the letters were placed in the hands of the police, who acted on the information with promptitude and energy. The three brothers were arrested, tried, and sentenced to penal servitude, two of them for twelve years, the third for seven. Meantime the letters sent to them were intercepted by the police. Eight hundred pounds arrived in a few days accompanied by appeals for forgiveness and protestations of innocence.

When the case was before Mr. Alderman Newton at the Mansion House, he described the publication of advertisements of this class as an ugly blot on the deservedly high character of our press in general. Mr. Justice Hawkins spoke equally strongly on the subject, and finally as a rider to their verdict the jury declared "that such a vile plot, even with all the ingenuity displayed in it, could only have been possible by the acceptance of such immoral advertisements by a section of the press, religious and secular, well knowing their nature." The jury further expressed their conviction that means should be found to suppress such advertisements and the institutions from which they emanate, as they considered them direct incentives to ignorant and evil-minded women to commit crime. Mr. Justice Hawkins received the rider with evident satisfaction, saying "That is one of the matters, if you will permit me, that I will send to the Home Secretary."

The *British Medical Journal*, commenting on this case said: "The stuff sent out to their victims by these men was stated to be harmless, in fact a good blood tonic, incapable of producing the effect claimed for it. Mr. Justice Hawkins seemed to regard this as an aggravation of the prisoners' offence because it was getting money under false pretences. But is it not time for medical witnesses to recognize and make known that there are no drugs which have any appreciable ecbolic effect? Women think that there are. Independent of the advertised nostrums there is probably nothing commoner than the sale over the counter by prescribing chemists of pills for the purpose of bringing on a delayed menstruation. The pills generally given for the purpose are those containing iron or aloes, or both, and it is probable that in a few cases the irritation of the lower bowel so produced may bring about the expulsion of an early ovum. In a good

many more no effect upon the uterus is produced. In some cases the expected menstruation has not appeared from causes other than pregnancy, from anxiety, from change of residence, anæmia or some other slight cause, and the drug given may do good by allaying fear, or by improving health. The futility of drugs for bringing on abortion will be illustrated by the following question: There are cases in which medical men for good reasons, and after consultation, think it necessary to induce abortion, but whoever heard of their trusting drugs to do it?"

The Advertising Association, of which Lord Riddell is President, has recently issued a most important memorandum to the Press of the country on the advertising of abortifacients. The memorandum states that "irregularity" in women as a rule means pregnancy, in other cases it means that medical treatment is required. It was pointed out that the warning that the advertised remedy was not to be used by pregnant women was particularly mischievous as it amounted to a positive inducement to acquire the remedy for the purpose of abortion. The Director of Public Prosecutions has expressed the opinion that the advertising of remedies for female irregularities is a serious source of danger, and has stated that it is being closely watched by his department. The memorandum also points out that before the Parliamentary Select Committee on Patent Medicines it was made clear that in most cases these advertised remedies are definitely and deliberately purchased where pregnancy is admitted or suspected in the belief that they will terminate the condition. Finally the Advertising Association, after recognizing that many newspapers already exclude mischievous advertisements of this sort, calls upon the Press as a whole, and upon the advertising agents and others concerned, to decline to accept any advertisements of drugs or treatment purporting to be remedies for disorders generally termed irregularities, female ailments, or women's complaints. This action will meet with general approval and be recognized as a public service of great value to the community. The indirect effect of the memorandum will be considerable, for if any advertising agent or newspaper manager found himself within the reach of the law he would no longer be able to plead

ignorance of the effect of the offending advertisement. The action of the Advertising Association will have made the publication of such advertisements in future a particularly deliberate act. If the memorandum does not have the effect desired, it will be necessary for Parliament to take notice of the minority of journals which ignore the warning.

After the discussion on abortion at the Medico-Legal Society held last year, the *Lancet* published a very illuminating leader on the subject. In the course of that article it was pointed out that if one took the figures of prosecutions in this country, it might be felt that criminal abortion was by no means common. But the picture was painted very differently by the speakers at the debate referred to. There it was shown that the crime was increasing without any question. The difficulties of prosecution were enormous. No evidence is forthcoming from the woman who has courted the dangers of abortion. If a professional abortionist has been at work, he has taken every precaution for secrecy. If a medical practitioner believes that his patient has broken the law, his professional respect for her confidence debars him (except in the event of death) from informing the police. Indeed if he were at liberty to make disclosure, he has usually nothing but suspicions to communicate. Suspected abortion is one of the causes of death for which the registrar must watch vigilantly with a view to referring the case to the coroner. The certificate of the medical practitioner may be significant but it can scarcely be hoped that the Registrar General will be able to furnish exact or trustworthy statistics from this source. The law is being broken frequently and with impunity. Competent judges state that the law itself is adequate: it is the enforcement which is at fault. Reformers would welcome a more vigorous attack upon the traffic in abortifacient drugs. They point to the shameless and unrestricted advertisement of preparations which claim to "remove all female obstructions however caused" and which must be either frauds or abortifacients. They advocate the suppression of such advertisements by law, as has been done in other countries.

No remedy will succeed without the support of public opinion, which for this purpose means largely the opinion

of women. Does public opinion condemn abortion as vigorously as in the past? Those who are in a position to know tell us that women, married and unmarried, demand abortion often without being conscious of any moral or legal offence. Birth control, nowadays canvassed without the old reserve, is essentially distinct from abortion: but the change of view towards birth control may be a symptom or an encouragement of other changes. Are we coming to a time when prudential considerations will be deemed to justify the interruption of pregnancy, at any rate in its early months, as though this were merely an extended form of contraception? Soviet Russia has legalized abortion upon condition that a medical commission approves and that the operation is performed by a doctor in a public hospital. What are the consequences to the health of the mother and to infantile mortality? We lack the positive knowledge which would provide a medical contribution to a moral question: the pursuit of evidence is distracted by non-medical issues. Yet it is to the medical profession that the public will look for guidance. At present unfortunately some reformers look askance at that profession, accusing it of shielding the abortionist by maintaining its ancient tradition of secrecy.

Since the above was written, there has been introduced into the House of Commons by Mr. Somerville Hastings (May 11, 1931), a Bill intituled "An Act to regulate the manufacture, sale, and advertisement of certain medicines and surgical appliances, and for purposes connected therewith." The subject is so important that the more important clauses of the Bill are quoted. It has not yet unfortunately become law, nor is there any immediate prospect of its doing so, but the mere fact of its introduction is hopeful. If it becomes an Act, it will render it criminal to sell or advertise medicines for the cure of amenorrhœa or other female disorders, or to print, publish or distribute any advertisement relating to any article which may suggest that the article may be used to produce abortion. This would immediately stop the trade in abortifacients, and incidentally would cause considerable reduction in the income of some of the religious papers.

The important Sections are as follows :

2.

1. After the expiration of six months from the passing of this Act it shall not be lawful for any person to sell, or to offer or advertise for sale, any medicine or surgical appliance of any kind whatsoever purporting or stated directly or by implication to be effective for the cure of deafness or rupture or for the prevention, cure, or relief of any of the diseases or infirmities mentioned in the Schedule to this Act. If the Minister is of opinion that the provisions of this subsection should extend to any other disease or infirmity, he may, upon giving six months' notice in the *London Gazette* of his intention to do so, by regulations under this Act add the name of that disease or infirmity to the Schedule to this Act. Provided that before any regulations are made for the purpose of the foregoing provision, a draft of the regulations shall be laid before both Houses of Parliament, and the regulations shall not be made unless both Houses by resolution approve the draft either without modification or with modifications to which both Houses agree, and upon such approval being given the regulations may be made in the form in which they have been approved.

2. No person shall print, publish, or distribute, or be concerned in any manner in the printing, publication, or distribution of, any advertisement or communication relating to any article expressed in such terms as may, or are likely or calculated to suggest (*a*) that the article may be used or may operate as a means of producing an abortion or miscarriage, or (*b*) that it may be used or operate for the cure of sexual weakness or for the promotion of sexual virility in the male and sexual desire in the female, or for the purpose of preventing masturbation or sexual excess, or for the cure of disorders alleged to be associated with these practices.

3. If any person acts in contravention of this section he shall be guilty of a misdemeanour.

4. Nothing in this section shall operate to render unlawful any advertisement, notification, or recommendation made or published by any local or public authority or made or published with the sanction of the Ministry

of Health ; or any publication sent only to duly qualified medical or dental practitioners, or to wholesale or retail chemists for the purposes of their business.

3.

If any person

(*a*) being the registered owner or the vendor of any proprietary medicine or proprietary surgical appliance, or the agent of any such owner or vendor, solicits or invites, whether by advertisement or otherwise, any person suffering, or believing himself to be suffering, from any ailment to enter into correspondence with him, either directly or indirectly, with reference to the ailment, or by correspondence treats or offers to treat any person suffering or believing himself to be suffering from any ailment, or offers to give advice on any person with reference to the cure, relief, or prevention of any ailment, or to return money paid therefor if such cure, relief, or prevention does not take place ; or (*b*) publishes or otherwise makes use of any fictitious, false, or misleading testimonials in relation to any proprietary medicine or proprietary surgical appliance ; or

(*c*) publishes, whether in any advertisement or otherwise, a statement to the effect that a proprietary medicine or proprietary surgical appliance is recommended by a duly qualified medical or dental practitioner without including in the statement correct and full particulars with respect to the name and qualifications and, in the case of a living person, the address of the medical practitioner ; or

(*d*) publishes, whether in any advertisement or otherwise, (i) a quotation, or any words purporting to be a quotation, from any medical, dental, or pharmaceutical publication, and containing a recommendation of a proprietary medicine or proprietary surgical appliance, or (ii) a statement to the effect that a proprietary medicine or proprietary surgical appliance is recommended in any such publication, without adding to the statement or quotation the name, date, and page of the publication, to which reference may be made for its verification ; or

(*e*) publishes, whether in any advertisement or otherwise, a false statement to the effect that, or a statement calculated to induce any person to believe contrary to

the fact that, a proprietary medicine or proprietary surgical appliance was discovered, invented, or compounded by a duly qualified medical practitioner; or

(*f*) publishes a false trade description of any proprietary medicine, or proprietary surgical appliance:

he shall be guilty of an offence under this Act. Provided that nothing in this section shall operate so as to render unlawful the use by an owner of a trade mark or trade name in which he held proprietary rights and which was in use on the 1st day of May, 1931.

8.

1. If any person is guilty of an offence which is declared by this Act to be a misdemeanour he shall be liable on conviction therefor to imprisonment for a term not exceeding twelve months, or to a fine not exceeding five hundred pounds, or to both such imprisonment and fine, and if any person is guilty of any other offence against this Act he shall be liable on summary conviction for each offence to a fine not exceeding fifty pounds, and in the case of a continuing offence to a further fine not exceeding five pounds for each day during which the offence continues after conviction.

2. Upon conviction of a registered owner for any offence against this Act the Court may direct, in addition to any other penalty, that his name be removed from the register.

9.

Nothing in this Act shall operate to render unlawful the sale of any medicine or appliance to or for the use of any person in accordance with a prescription given in the case of that person by a duly qualified medical or dental practitioner and dispensed by a duly qualified medical or dental practitioner or pharmacist.

10.

For the purposes of this Act the expressions "medicine" includes any drug, preparation, or compound of any description whatsoever to be used whether externally or internally for the prevention, cure, or relief of any malady, ailment, infirmity, or disorder affecting human beings;

the expression "proprietary medicine" means any medicine which is held out by advertisement, label, or otherwise in writing as efficacious for the prevention, cure, or relief of any malady, ailment, infirmity, or disorder affecting human beings; (*a*) which is sold under a trade name or trade mark to the use of which any person has claims or purports to have an exclusive right; or (*b*) of which any person has or claims or purports to have the exclusive right of manufacture, or for the making of which any person has or claims or purports to have any secret. The expression "proprietary surgical appliance" means any instrument or contrivance of a medical or surgical nature, which is recommended to the public by advertisement, label, or otherwise in writing, as of use for curative purposes, and which is sold under a trade name or a trade mark to the use of which any person has or claims or purports to have an exclusive right, or for the making or selling of which any person has or claims or purports to have an exclusive right. The expression "Minister" means the Minister of Health. The expression "registered owner" or "person registered as an owner" includes a person registered as the representative of an owner.

II.

1. This Act may be cited as the Proprietary Medicines Act, 1931.

2. This Act shall not apply to Scotland or Northern Ireland.

Schedule to Section 2.

1. Cancer.
2. Consumption.
3. Lupus.
4. Fits.
5. Epilepsy.
6. Amenorrhœa and other diseases peculiar to women.
7. Diabetes.
8. Paralysis.
9. Locomotor ataxy.
10. Bright's disease.

CHAPTER XVI.

MEDICO-LEGAL EXAMINATION OF CASES OF ALLEGED ABORTION.

In any medico-legal examination of a supposed case of criminal abortion, the following points demand attention.

(*a*) The history of the case and of the woman.

(*b*) The examination of the woman, whether alive or dead.

(*c*) The examination of any substance expelled from the womb.

(*d*) The examination of any drugs or instruments discovered.

(*a*) The History.

Among the points for investigation are the following: Has there previously been any tendency to abort? What is the general state of health of the woman? Is there any disease present such as syphilis, or uterine trouble, which might make natural abortion probable? Has she taken drugs for illegal purposes?

(*b*) Examination of the Woman.

Signs of Abortion in the Living.—These will naturally depend on the period of gestation which has been reached and also on the time which has elapsed since the occurrence of the miscarriage.

If the abortion takes place in the first two months practically nothing will be found by examination of the patient. The conditions will be much the same as after an ordinary monthly period.

At three to four months, the usual time at which abortion is procured, the signs are more definite. There is a relaxed condition of the vulva and vagina, the os uteri is patulous, there is a lochial discharge which later

becomes a white mucous secretion, the breasts are distended and knotty, and from them can be obtained a milky discharge.

Unless the examination is conducted soon after the miscarriage, very little information will be obtained, as the signs at the above period, three to four months, disappear quite rapidly.

The appearances after recent delivery at full term are distinct and characteristic. The patient has the look of one who has passed through an illness, and this is especially noticeable if the pregnancy has been concealed. The abdomen is a little full, relaxed, and the skin wrinkled. There are usually skin cracks (*lineæ gravidarum*) present. Pigmentation, especially in the form of a central dark line from pubes to ensiform cartilage, is visible. The breasts are full, and contain milky fluid. The fundus of the uterus can be felt above the pubes for ten days or perhaps more. For some time beyond this, the enlargement of the womb can be detected by bimanual examination. The vagina is lax, and may show lacerations especially at the perineal edge. The cervix is soft and patulous and its margins may be torn. There is a lochial discharge, the character of which will depend on the time since delivery has taken place. The tissues of the cervix, vagina, and perineum are all soft. These signs should enable a certain diagnosis of delivery to be made up to about a fortnight after the event. The later the date of the abortion, the nearer do the signs approach those enumerated above as characteristic of delivery at full term.

If any complications are present such as peritonitis, metritis, &c., they will be indicated by the usual symptoms.

Signs in the Dead.—The examination of the body of a woman who is alleged to have died as the result of an illegal operation must be carried out with very special care. It is important that the autopsy shall be a thorough one, and all the organs examined, as the defence in an illegal operation charge may be that the miscarriage was due to disease. The post-mortem may prove or disprove this.

The external appearances of the body must be noted and recorded, for it may be alleged that some accident

has caused the abortion. Marks on the child should also be looked for.

When the abdomen is opened the presence of any inflammation in the pelvis or elsewhere should be first noted—its exact extent, and especially if it is localized round any definite points. This would lead to the suspicion of local injuries, such as punctures. The whole of the genital canal must be carefully dissected out and opened up. To do this it may be necessary to saw through the pelvic bones. The organs should be preserved so that they may be produced if necessary.

The uterus should be examined for any signs of injury or inflammation, and if present, its exact position, shape, size and condition noted. The size of the organ and the thickness of its walls should be determined. The appearances presented by the genital organs and uterus resulting from a natural abortion, especially in the later months, must be differentiated from a criminal case. Injuries caused by abortionists are as a rule near the cervix or in the uterine cavity, and are generally punctures or longitudinal lacerations; they differ in look from the tears in the cervix or the superficial injuries of the wall of the vagina which are often found after natural delivery. Spontaneous ruptures of the uterus are usually situated in the lower half and run transversely, whereas the ruptures caused in abortion are mostly longitudinal. It is usually easy to distinguish wounds made after from those made before death, as the latter will have cicatrized or will be coated with blood, pus or lymph.

Other points to which attention should be directed are the condition of the internal surface of the uterus, the presence or absence of the lining mucous membrane, the presence or absence of signs of inflammation, and the condition of the site of the placenta, which is distinguishable after the end of the second month. The state of the os uteri should be noted. The other organs, especially the stomach and intestines, liver, bladder and kidneys, should be examined for signs of any poisonous drug which may have been used. This may be indicated by inflammatory symptoms, and an analysis of the viscera and their contents may be necessary.

It must be remembered that if death has occurred during an ordinary menstrual period, the walls of the

uterus are thick and spongy, and the lining membrane swollen and hyperæmic. The cervix is patulous, and the mucous membrane of the vagina in a similar condition to that of the rest of the genital tract. The ovaries are also congested and show evidence of the recent escape of an ovum. In deciding whether there has been an abortion or not, these facts must be taken into consideration.

If complications have been present such as metritis or peritonitis, they will be indicated by the ordinary signs of these complaints. Peritonitis due to criminal abortion is generally more localized than when due to other causes. Important questions may arise here. In a case in which death has taken place from peritonitis and it is alleged that instruments have been used to procure abortion, the investigation of the cause of the peritonitis is of the utmost importance and must be most carefully carried out. Was it due to the illegal use of instruments or was it due to natural disease ? Taylor relates a very instructive case in which he was consulted on this point. It concerned the death of a woman named Susannah Barker, which was supposed to be due to attempts to procure criminal abortion on her. It appeared that after three days' illness deceased was taken in labour and delivered of a dead fœtus which was between the sixth and seventh month. She died a few hours afterwards. At the autopsy it was found that the cause of death was peritonitis. She had previously complained of severe abdominal pain, and there was no doubt that peritonitis had developed before the miscarriage. She admitted to her medical attendants that she had taken some powders to cause miscarriage and further that a person calling himself a medical man had about a week before introduced two instruments into her body which had caused her great pain. The heart, lungs, and stomach were healthy and the uterus had simply the appearance arising from recent delivery. There was no injury to the vagina, nor any wound of the peritoneum itself. There was no sign of injury to the child which had been expelled enclosed in the membranes. The medical men who examined the case thought the peritonitis was due to the passage of instruments and that this might occur without leaving after death any trace of their employment. At the same time it was admitted that a speculum used in the ordinary way

would not produce peritonitis. (The defence urged that the only instrument used was a speculum.)

Dr. Taylor's view was that the connection of the peritonitis with the alleged manipulations was not proved. The absence of any bruise, puncture, or laceration affecting the womb, the vagina, or the fœtus, together with the fact that, whatever may have been the instruments used the membranes were unruptured, rendered it impossible to assign the peritonitis with absolute certainty to the acts of the person who was charged with causing the death of the woman. For anything that appeared to the contrary he might have used a speculum and this instrument certainly does not cause peritonitis. The connection of the death with instrumental violence was therefore not established, and the jury discharged the suspected person. There was not the slightest *medical* proof that any improper instrument had been introduced into the vagina with felonious intent.

The following case is a good example of the care which it is necessary to take in making a post-mortem on any body which may have been the subject of criminal abortion if a right conclusion is to be reached. A woman named Catherine Tupner, aged 35, died in February, 1887. She aborted on February 12, and on the next day Mr. Wickers was called in to attend her. She died ten days later and he gave a death certificate of "puerperal metritis." Dr. Danford Thomas was informed and held an inquest. At the autopsy it was found that abortion had been induced by operative measures. There were no wounds of the vulva, vagina, or os uteri, but in the cervix there were several deep elongated lacerations, extending nearly the whole length of the canal. These lacerations tapered off at each end. The body of the womb which was uninjured, and empty of the products of conception, save for part of the placenta, showed pregnancy to have been advanced to about three months. The peritoneum was inflamed especially in its pelvic portion. On the left side of the uterus there were extensive cellulitis and abscess formation. The brain showed meningitis, and the spleen, liver, and kidneys showed signs of septic infection. There was thus local and general evidence of septicæmia. In the right ovary was a corpus luteum, half an inch in diameter, consisting of

a large central black clot and a peripheral corrugated zone of orange coloured tissue. In the same ovary was a minute stella cicatrix, the remains of a ruptured follicle due to a past menstruation or conception. In the left ovary was a cyst a quarter of an inch in diameter, containing sepia-like fluid. These facts relating to the ovary are interesting as indicating that the pregnancy was a twin one. It appears either that both ova were liberated from the same follicle, or that the second corpus luteum failed to develop. Now considering the extent of the cervical lacerations, and the freedom of the parts external to it from wounds, the opinion formed by the medical men consulted that the operation had been performed by a practised hand was well grounded. Clearly the deceased could not have inflicted the injuries herself, and it is scarcely possible that a person wholly unskilled in instrumentation of the uterus could have avoided wounding the vagina and os uteri. The jury returned a verdict of "Murder against some person or persons unknown."

A case at Leicester which happened in 1876 again shows very clearly the importance of a carefully-performed autopsy. On April 20, 1876, Dr. Bryan of Leicester was sent for to see a child 3 years old, whom he found to be suffering from scarlet fever. He ceased attendance on her on the 29th of the month. About 9 o'clock on the next day, April 30, he was sent for to see Mrs. G., the mother of the child whom he had been attending. The doctor was informed that Mrs. G. had had a miscarriage a few days before and had been ill ever since. He found her suffering from acute peritonitis. She had no sore throat and no rash, but as the child had been sleeping with her he came to the conclusion that Mrs. G. was suffering from puerperal peritonitis due to scarlet fever. She died two days later, and Dr. Bryan gave a death certificate: "Primary miscarriage; secondary, scarlet fever" He makes this naïve remark: "I knew quite well that had I certified puerperal fever, or puerperal peritonitis, I should have damaged my practice."

When attending a confinement in the neighbourhood a few days later he was told that he had allowed Mrs. G., on whom abortion was alleged to have been procured,

to be buried. He immediately informed the coroner of the rumour, and he later, obtaining sufficient evidence, ordered the body to be exhumed and a post-mortem carried out.

The autopsy was made fifteen days after death by Mr. Franklin. The following are his notes: "Body of a well-formed woman. Abdominal parietes much discoloured from post-mortem change. Marked distension of abdomen; on reflecting the walls there was evidence of extensive peritonitis. The intestines were everywhere matted together, particularly so about the fundus of the uterus and in the right iliac fossa; here also the intestine was more or less adherent to the abdominal wall. The peritoneal cavity contained about a pint of decomposing, stinking pus. The intestines were carefully raised from the iliac fossa, and the uterus, together with the ovaries, the bladder and the rectum were carefully sponged, cleaned, and examined *in situ*. Commencing anteriorly. The superior surface of the bladder was smooth and glistening. The fundus of the uterus looked about twice its normal size (measurements were taken after its removal from the body); its serous surface was generally smooth, glistening, and pale. Just below the summit of the fundus, on its posterior wall, a little to the right of the median line, there was a patch, the size of a half-crown piece, showing considerable roughness and vascularity, it was markedly red compared with the pale greenish colour of the peritoneum all round it. About its centre was a dark-coloured wound. By sponging the serous surface carefully, and removing small flakes of inflammatory lymph, this mark became more distinct, and then minute quantities of apparently decomposed clots came away, leaving a slit with everted edges, $\frac{1}{16}$ in. deep, which had all the appearance of a clean incised wound, a $\frac{1}{4}$ in. long. The right ovary, and also the broad ligament in part, was more or less firmly adherent to the iliac fossa. The ovary of this side was enlarged, looked red and much inflamed; the left appeared normal. The recto-uterine pouch was cleared out of all pus and lymph, and no abnormality was observed here. The serous surface of the rectum and the recto-uterine folds of peritoneum were smooth and glistening. The intestine was now divided at the sigmoid flexure, and then the rectum,

uterus, ovaries, bladder, and vagina were removed *en masse* from the body for further examination. The exact position of the wound alluded to above was 1½ in. below the fundus, a little to the right of the median line. A second wound was now seen about 1 in. to the left and a little below the first described. This was quite black, not so large as the former one, and the serous membrane seemed to be continuous over it, as if it had been a recent wound that had healed. Lower down on the posterior wall of the uterus, and just below Douglas's pouch, was a third wound exactly in the median line. This wound, as well as the second, was quite black in appearance, and was horizontal to the long axis of the uterus, or somewhat semilunar; it was just 2 in. below the first mentioned, and was from a ¼ to ½ in. long. The serous surface was quite smooth over this mark. The uterus measured externally, from os to fundus, 6 in. Its broadest diameter, an inch below the fundus, was 4½ in. A sound passed internally a little over 5 in. The bladder was opened by an incision along the anterior wall; its internal surface was quite smooth, there was no appearance of bruising. The vagina was opened by slitting up its superior wall, to the right of the median line, to avoid the bladder. It measured exactly 5 in. in length. The mucous surface was all of a dark red colour; decomposition was advanced above the labia, but no laceration could be detected. The os uteri was now seen to be in a soft, almost sloughy condition, of a dark green colour; both lips very irregular on the surface; it admitted the tips of two fingers. The uterus was laid open by an incision all along its anterior wall, to the right of the median line. The mucous membrane lining the cavity of the cervix was very irregular, and in a sloughy condition, like the os externum, but no laceration could be made out. The cavity of the body of the uterus contained a considerable amount of dark coloured stinking clot. After carefully sponging out the cavity, there remained a quantity of dark, almost black, clot adhering to the mucous surface. Just above the os internum, in the median line of the posterior wall, a small horizontal cut or laceration of the mucous membrane and of the immediately subjacent tissue was discovered; this corresponded to the lowest of the three wounds described as

appearing on the external surface of the external wall; it was on a somewhat lower plane than the mark on the external wall. No cut or laceration could be satisfactorily made out to correspond with the two other wounds. The wall of the uterus at the fundus was about a ¼ in. in thickness, at the cervix ⅛ in. No other organs of the body were examined. (This is a serious omission. Every other viscus should have been carefully looked at. It is a remarkable mistake especially when it is considered how very carefully the examination of the organs of generation was made).

From the appearances thus described at length, no doubt was entertained that the posterior walls of the uterus had been punctured in the successful attempt to procure abortion. One witness, a friend of the deceased, in her evidence given before the Coroner, said that she (the deceased) told her that "the man put his hand in her womb, and that God and herself only knew the pain she went through." The deceased appears to have gone to this man's house and then to have walked home after the operation, abortion taking place some eight or ten hours subsequently. There is nothing improbable in the fact that the woman should have been able to walk home, a distance of a quarter of a mile, after having received this injury; the wounds would close at once, and there would be but little hæmorrhage. Peritonitis made its appearance in about forty-eight hours, and the woman died five days afterwards.

The ready recognition of the wounds was evidently due to the decomposition of the blood which had been effused between the cut surfaces. It was quite black, and, as stated above, came away from one of the wounds when the surface was being sponged. There could obviously be no doubt as to the wounds having been inflicted during life.

If the idea of the operator were to puncture the membranes, and so cause a miscarriage, he evidently missed his aim in one instance; the instrument, instead of following the axial curve of the uterus, had, after safely traversing the cervix, gone straight towards the sacral promontory, causing the lowermost of the three wounds. To cause the other two, the instrument must have punctured the membranes, probably the placenta, possibly the fœtus itself.

Any substance which is said to have been expelled from the uterus should be well washed in water before examination. It may be a product of conception, blood-clot, polypus, fibroid, or dysmenorrhœal membrane. No substance should be regarded as a product of conception which does not show signs of an ovum. If there are chorionic villi present they are proof that there has been a miscarriage. If it is a product of conception, it may be a fœtus or a mole. If a fœtus, its stage of development may be gauged from the data below.

If a mole, which is nothing but a degenerated fœtus, it may be either one of the three following varieties: carneous, fatty, hydatiginous.

Carneous mole.—This is a result of hæmorrhage into the chorion. A fleshy mass is found with sometimes a withered fœtus attached. Fatty mole.—Here there is fatty degeneration of the placenta, with a shrivelled fœtus in it. Hydatiginous mole.—In this case the villi, as a result of a diseased condition of the chorion, become dropsical and hang in masses like bunches of grapes.

In connection with this examination some very important facts must be noted. In the first three months of pregnancy, as a rule, the fœtus is expelled entire without any rupture of membranes. In the second three months the fœtus is generally expelled first, as the membranes rupture, and this is followed later by the placenta. If, then, during the first three months the usual rule is not followed, and the fœtus passes first, followed later by the placenta, there is probably some pathological reason for this. If there is no disease of the mother or embryo, an artificial abortion must be suspected. This rupture of membranes during the first three months is not absolute proof of criminal abortion, but is highly suggestive. In eighteen cases of spontaneous abortion during the first three months of pregnancy, Leblond found only one in which the membranes were ruptured, and in this instance they were unduly friable.

The following are the appearances of the embryo at its various stages of development :—

One Month.—The embryo measures about $\frac{1}{8}$ in. in a straight line, about $\frac{1}{4}$ in. along the curve. The ovum is about $\frac{3}{4}$ in. long. The presence of the limbs can be seen. The nasal pits, a cleft indicating the mouth, and two black

dots representing the eyes, with the umbilical vesicle and the blood-vessels are present. The amnion is close to the embryo, and is separated from the villous chorion by a clear cavity.

Two Months.—The embryo is ½ in. long in a straight line about 1 in. along the curve. It weighs 60 gr. The nasal and oral openings are separated, and the head is becoming distinct from the body. The Sylvian fossa is distinguishable. The Wolffian bodies have almost disappeared and have become divided into urinary and generative organs. The early centres of ossification are present in the lower jaw, ribs, bodies of the vertebræ and the clavicle. The annion is in contact with the chorion, and the cavity contains more fluid. The villi of the chorion are well-developed at one spot, and the umbilical vessels passing to the chorion are the only visible remains of the allantois.

Three Months.—The embryo now weighs from 300 to 450 gr. and is 2¾ to 3½ in. long. The head is separated from the body by the neck, and the ribs sufficiently developed to differentiate the chest and abdomen. The eyelids and the lips are closed and the pupillary membrane is present. The teeth are beginning to form. The fingers, toes, and rudiments of the nails are distinguishable. The penis and clitoris are developing and sexual differentiation is commencing. The chorion has lost most of its villi and the placenta is distinct. The umbilical cord is spiral, about 2¾ in. long and is inserted into the lower fourth of the linea alba. The decidua vera and reflexa are in contact.

Four Months.—The fœtus is 4 to 6½ in. long, and weighs from 2 to 4 oz. The head is equal to one-fourth of the length of the body. The mouth is open, the eyes, nose, and ears are distinct. Hairs are beginning to form. The pupillary membrane is quite distinct. The eyelids are closed. The occipital lobe is mapped out. Centres of ossification are present in the lower segments of the sacrum. The placenta weighs about 2¾ oz. The umbilical cord is 7½ in. long, is more spiral, and is thicker from the formation of Wharton's jelly. The sex is distinguishable. The chorion and amnion are in contact.

Five Months.—The fœtus is 7 to 10½ in. long and weighs 10 oz. The head is still large in proportion to the rest of

the body and hair has commenced to grow on it. The skin is red and covered with *vernix caseosa*. The eyelids are closed and the pupillary membrane is still present. Lanugo begins to form along the eyebrows and on the forehead. The nails are beginning to show. The Sylvian fossa becomes triangular, and the temporal and frontal opercula grow during this month. The surface of the island of Reil is marked by sulci. The fissure of Rolando may appear at this time, often not till later. Centres of ossification are present in the os calcis and the pubes. There is bile-stained fluid in the small intestines. The placenta weighs 6 oz. The umbilical cord measures 12 inches.

Six Months.—The length of the fœtus is now 9 to 13 in. and the weight 1 to 2 lb. The head is still large in proportion to the body. The skin is red and wrinkled, the underlying fat, which later rounds off the limbs, is only beginning to form. The body is covered with downy hair (lanugo) and also a thin layer of *vernix caseosa*, a white substance consisting mainly of sebaceous matter. The head bones are widely separated at the sutures, the anterior and posterior fontanelles being open. The Sylvian fissure is formed. The precentral, inferior frontal, and intraparietal sulci of the cortex appear. The eyebrows and eyelashes are commencing to form. The eyelids are adherent. The pupillary membrane, which has existed since the third month, is still present. The finger nails are forming but still soft, the toe nails are less developed. The scrotum is smooth and the testicles have not descended. In the small intestine there is some mucous secretion, which may be coloured with bile pigment. Centres of ossification are present in the manubrium and in the bodies and laminæ of the sacral vertebræ.

Seven Months.—The length of the embryo has now increased to 12 or 15 in. and weighs 2 to 4 lb. The skin is rather paler and is well covered with lanugo and *vernix caseosa*. The lanugo is beginning to disappear from the face, and on the scalp is taking on the characteristics of hair, and is becoming darker. The superior precentral and the superior frontal sulci appear. The eyelids are not adherent. The pupillary membrane, which reaches its highest development this month, is beginning to dis-

appear. The finger nails do not quite reach the end of the fingers. The testicles are near the external ring. The large intestine contains meconium. Centres of ossification are found in the first piece of the body of the sternum and in the astragulus.

Eight Months.—The length of the fœtus is now 15 to 17 in., and the weight 4 to 5 lb. The pupillary membrane has disappeared, and the lanugo is diminishing. The skin is paler and the limbs have become more rounded by the deposition of subcutaneous fat. The nails are harder and have reached the ends of the fingers but not of the toes. The testicles are in the inguinal canal or may even have reached the scrotum. Valvulae conniventes are present in the small intestine, and the kidneys are formed. The bladder may contain urine. A centre of ossification is formed in the second piece of the body of the sternum.

Nine Months.—The length of the body is 18 to 20 in. and the weight 5 to 8 lb. The head measures transversely about 4 in., sagitally about 4½ to 5 in. The shoulders measure 4¾ in. across and the hips 4 in. The skin resembles that of the adult, the limbs and body are plump, and the face has lost its wrinkles. The lanugo has almost disappeared. *Vernix caseosa* is only present in quantity on the back and the flexor aspect of the limbs. The hair on the head is mostly dark and is about 1 in. long. Along the lines of the sutures the bones of the skull are close together but the parietal and occipital bones are only united by membrane. The posterior fontanelle is closed, the anterior open. The secondary sulci of the brain appear and the surface is more highly convoluted. The eyelids and lashes are well formed. The cartilages of the nose and ear are hard. The nails project beyond the finger tips and they reach to the tips of the toes. The testicles are in the scrotum which is well corrugated. Meconium is present in the large intestine only. In the lower end of the femur there is a centre of ossification. This is of great importance as it appears with tolerable constancy about a fortnight before birth, and it is the only epiphysis in which there is ossification before full time. There are also centres of ossification in the cuboid, the first coccygeal vertebra and the third piece of the body of the sternum.

To discover this centre in the femur, the lower end should be dissected clean and then sliced carefully until a red spot of gritty consistence makes its appearance in the middle.

In forming any opinion as to the exact age of a fœtus it must be remembered that the criteria given are not by any means invariable, and therefore several of the more important of them should be present before any decision is arrived at concerning the stage of development of the embryo.

In addition to the question of the age, a search should be made for any wounds or injuries of the embryo, especially if a period towards the end of conception has been reached.

(*d*) Any drugs discovered in connection with the case must be examined and analyses made if necessary. Instruments which are likely to have been used must be carefully inspected. After taking all the various points mentioned into consideration, it will be found possible in most instances to give a definite opinion.

The rare possibility of a post-mortem delivery must not be forgotten. It is not likely to occur in this country, but cases have happened in India.

A Mussulmani, aged about 27 years, drowned herself just before her expected confinement. Three days later her decomposed body was found. There was no sign of delivery having taken place. She was left lying on the ground for a whole day in the hot month of June, with a watcher. No one touched the body and nothing unusual was noticed. In the evening it was found that the uterus with all its contents had emerged from the vagina, and that the womb was inverted. The fœtus was full grown. No attempt had been made to induce abortion, but the uterus had been forced out by the pressure of gases formed by decomposition.

CHAPTER XVII.

DUTIES OF DOCTORS IN ILLEGAL OPERATION CASES.

A VERY important question arises in connection with this subject of criminal abortion. What is the duty of a doctor who is called in to attend a patient on whom the operation has been procured or attempted? This is by no means an uncommon experience. Many of the victims of the abortionist get so seriously ill that they call in their regular doctor, or, at any rate, a medical attendant. What is his duty? Some few years ago this point engaged the attention of the profession.

Partly as the result of some *obiter dicta* of Mr. Justice Avory during the trial of an abortion case, the Royal College of Physicians went into this matter with great care. Counsel's opinion was taken, and the result of the deliberations of the college and of other bodies are so important that I feel justified in quoting them at length. The question as to how far a medical man, who obtains in his professional capacity knowledge of the commission of a criminal offence, is under a duty as a citizen to give information to the police authorities and so set the criminal law in motion, is one which is of great interest to the medical profession.

It is manifest that as a standing rule, applicable to the vast majority of cases, it is of the very highest importance that professional confidence should be respected and held inviolate. A frequent occurrence is that of the medical man called in to attend a woman upon whom he comes to the conclusion that an illegal operation has been performed, and in this case, at any rate, it is now safe to say that the doctor is under no obligation to, and indeed should not, divulge the information which he has obtained in his professional capacity.

In order to explain how the point arose we must go back to 1896, when the late Lord Brampton, better known as Mr. Justice Hawkins, in charging a grand jury, said :—

"I doubt very much whether a doctor called in to assist a woman, not in procuring an abortion, for that in itself is a crime, but for the purpose of attending her and giving her medical advice, could be justified in reporting the facts to the Public Prosecutor. Such action would be a monstrous cruelty. . . . There might be cases when it was the obvious duty of a medical man to speak out, and it would be a monstrous thing for a medical man to screen a person going to him with a wound which it might be supposed had been inflicted in the course of a deadly struggle."

Lord Brampton's remarks were brought to the notice of the Royal College of Physicians of London, and as a result it obtained the joint legal opinion of Sir Edward Clarke and Mr. Horace Avory—the latter was then in practice at the junior Bar, but has since been raised to the Bench. They advised that a medical practitioner was not liable to be indicted for misprision of felony (an offence which is practically obsolete), merely because he does not give information in a case where he suspects that criminal abortion has been practised. There the matter rested till the close of 1914, when, at the Birmingham Assizes in December, Mr. Justice Avory had to deal with a case of alleged illegal operation upon a woman on whom three successive doctors had been in attendance. None of these doctors had given information to the police, and in consequence there was no evidence on which the prisoner who was accused of having performed the illegal operation could be put on her trial. In charging the grand jury, the Judge made the following observations :—

"Under circumstances like these in the present case I cannot doubt that it is the duty of the medical man to communicate with the police or with the authorities in order that one or other of those steps may be taken for the purpose of assisting in the administration of justice. No one would wish to see disturbed the confidential relation which exists, and which must exist, between the medical man and his patient, in order that the medical man may properly discharge his duty towards his patient ; but there are cases and it appears to me that this is one, where the desire to preserve that confidence must be subordinated to the duty which is cast upon

every good citizen to assist in the investigation of a serious crime such as is imputed to this woman. In consequence of no information having been given, it appears to me that there is no evidence whatever upon which this woman can properly be put upon her trial. I have been moved to make these observations, because it has been brought to my notice that an opinion to which I was a party some twenty years ago, when I was at the Bar, had been either misunderstood or misrepresented in a textbook of medical ethics, and I am anxious to remove any such misunderstanding if it exists. It may be the moral duty of the medical man, even in cases where the patient is not dying, or likely to recover, to communicate with the authorities when he sees good reason to believe that a criminal offence has been committed. However that may be, I cannot doubt that, in such a case as the present, where the woman is, in the opinion of the medical man, likely to die, and, therefore, her evidence likely to be lost, that it is his duty ; and some one of these gentlemen ought to have done it in this case."

Mr. Justice Avory was therefore insisting that, professional secrecy notwithstanding, medical men are under the same moral duty as other citizens of the State in some cases in which they become aware of the commission of a criminal offence, to give information to the authorities.

These remarks were brought to the attention of the Council of the British Medical Association, and after full consideration of the matter, in consultation with the Solicitor to the Association, a deputation was appointed to confer with the Lord Chief Justice on the question raised. This deputation was received by the Lord Chief Justice, and the Attorney-General and the Public Prosecutor were present. It was then ascertained :—

(1) That it is desired by the authorities that information should be given to them by the medical men in attendance upon a woman suffering from the effects of abortion brought about by artificial intervention.

(2) That the circumstances in which it was desired that this communication should be made were the subject of the following three limitations :—

(*a*) That the medical man was of opinion, either from his examination of the patient and/or some communication that she may have made to him, that abortion had been attempted or had been procured by artificial intervention.

(*b*) That he was of opinion, either from his observations and/or from a communication made to him by his patient, that such artificial intervention had been attempted by some third party other than the patient herself; and

(*c*) That the medical man was of opinion that his patient, due to such artificial intervention, was likely to die, and that there was no hope of her ultimate recovery.

Upon this the Council of the British Medical Association made the following observations in its report for 1915 :—

The Council understands that whereas solicitors and barristers have an absolute privilege of protection in regard to statements made to them in their professional capacity involving matters of criminal import or otherwise, no other class of person is accorded such legal protection by State authority or Act of Parliament, although in the case of ministers of religion such protection is universally observed and recognized by custom in the courts.

There is, however, no such universal protection attaching to medical men in respect of statements made to them by a patient ; in fact, there is a considerable conflict of authority upon the subject.

The council is advised that no obligation rests upon a medical practitioner to disclose the confidence of his patient without the patient's consent, and suggests that if the State desires to set up such an obligation it should at the very least preface such an endeavour by affording to the practitioner protection from any legal consequences that may result from his action. Without any desire to claim the right to refuse to make such disclosures in obedience to the order of a Court of Justice, the Council, after hearing the report of the deputation received by the Lord Chief Justice on May 3, 1915, has decided to adhere to the following resolutions which it passed on January 27, 1915.

That the Council is of opinion that a medical practitioner should not under any circumstances disclose voluntarily, without the patient's consent, information which he has obtained from the patient in his professional duties.

That the Council is advised that the State has no right to claim that an obligation rests upon a medical practitioner to disclose voluntarily information that he has obtained in the exercise of his professional duties.

The matter has also been taken up by the Royal College of Physicians of London. The College passed certain resolutions in July, 1914. It was subsequently con-

sidered advisable to obtain an opinion from Mr. R. D. Muir on the legal advice appended to the resolutions. These were finally adopted in the following form after they had been submitted to the Public Prosecutor for his approval. The resolutions of the College and the advice it has received are in the following terms :—

Resolutions concerning the duties of medical practitioners in relation to cases of criminal abortion adopted by the Royal College of Physicians of London on January 27, 1916.

The College is of opinion :—

1. That a moral obligation rests upon every medical practitioner to respect the confidence of his patient, and that without her consent he is not justified in disclosing information obtained in the course of his professional attendance upon her.
2. That every medical practitioner who is convinced that criminal abortion has been practised on his patient should urge her, especially when she is likely to die, to make a statement which may be taken as evidence against the person who has performed the operation, provided always that her chances of recovery are not thereby prejudiced.
3. That in the event of her refusal to make such a statement he is under no legal obligation (so the College is advised) to take further action, but he should continue to attend the patient to the best of his ability.
4. That before taking any action which may lead to legal proceedings a medical practitioner will be wise to obtain the best medical and legal advice available, both to ensure that the patient's statement may have value as legal evidence, and to safeguard his own interests, since in the present state of law there is no certainty that he will be protected against subsequent litigation.
5. That if the patient should die, he should refuse to give a certificate of the cause of death, and should communicate with the coroner.

The College has been advised to the following effect:—

1. That the medical practitioner is under no legal obligation either to urge the patient to make a statement, or if she refuses to do so, to take any further action.
2. That when a patient who is dangerously ill consents to give evidence her statement may be taken in one of the following ways:—

(*a*) A magistrate may visit her to receive her deposition on oath or affirmation. Even if criminal proceedings have not already been instituted, her deposition will be admissible in evidence in the event of her death, provided that reasonable written notice was served on the accused person and he or his legal adviser had full opportunity of cross-examining.

(*b*) If the patient has an unqualified belief that she will shortly die, and only in these circumstances, her dying declaration will be admissible. Such a declaration may be made to the medical practitioner, or to any other person. It need not be in writing, and if reduced into writing it need not be signed by the patient nor witnessed by any other person, though it is desirable that both should be done, or that, if the patient is unable to sign, she should make her mark. If possible, the declaration should be in the actual words of the patient, and if questions are put, the questions and answers should both be given, but this is not essential. If the declaration cannot there and then be reduced into writing, it is desirable that the person to whom it is made should make a complete note of it as soon as possible.

January 27, 1916.

The position may therefore be thus summarized:—

(*a*) Anyone who, knowing of the commission of a criminal offence, attempts to conceal his knowledge from the authority may himself be guilty of the offence of misprision of felony—an offence, however, which is practically obsolete.

(*b*) An ordinary citizen, not being a barrister or solicitor, is under a moral duty to inform the authorities when he has knowledge of the commission of a criminal offence.

(*c*) A medical man, however, is under no such moral duty where his knowledge is obtained in his professional capacity, so far, at any rate, as the offence of abortion is concerned.

Many controversial points are raised by this statement —points on which, I fear, it will be difficult to get the lawyers and the doctors in agreement.

CHAPTER XVIII.

DIFFICULTIES OF DOCTORS IN ABORTION CASES.

SOME cases illustrating the difficulties and dangers which beset medical men, especially those who do not exercise the precautions which common sense and experience dictate, are here recorded.

A young unmarried woman who had been staying for some time at a hotel, sent for a doctor to attend her for an illness. This illness proved fatal. On the morning of her death the doctor had called, and seen the patient. After his visit he locked the door of her bedroom, and left the hotel, telling the officials that the patient was sleeping and that he did not want her disturbed. He returned a few hours later and found the lady in a dying state. He was at once arrested. He took the officer who arrested him to his surgery and showed him a fœtus of which he said his patient had been delivered. Shortly before this, at the time of his early attendance, he had shown a chemist a stout sharpened quill, about six inches long covered with blood. He told this chemist he wanted him to examine it ; he was afraid he might get into trouble as a woman had been using it for criminal purposes.

The evidence given by the prisoner was that about three weeks before the death of the girl he had been asked to perform an illegal operation on her but had refused. About a week later she had sent for him complaining of pelvic symptoms. He found a sponge embedded in the *os uteri.* He removed this and noticed that the parts were lacerated and covered with pus. For this he gave her local treatment and a week later left her as cured. Some days after she saw him again, complaining of labour pains. She then denied that she had made any attempt to procure abortion on herself. Later she told him she had inserted a quill in the uterus. She

gave birth to a dead fœtus. He prescribed sedatives and left directions that she should not be disturbed. When he returned about an hour later he found her dying from uterine hæmorrhage. The jury convicted him, but the verdict was reversed on appeal. If the man was guilty, he had a very lucky escape, for his conduct throughout the case was to say the least most indiscreet, and brought on himself the terrible ordeal through which he passed.

The High Court in Austria committed two eminent medical men for trial because one had advised the induction of artificial abortion, and the other had carried out the operation. Both were sentenced to three months imprisonment on the testimony of the forensic expert who stated that from the data obtained from the patient several months later, and from the notes of the case history in the private cottage hospital in which she had been, he had come to the conclusion that the operation was not necessary. Both the men sentenced were fully qualified practitioners, of good standing. The man on whose evidence they were convicted was an expert forensic pathologist, with no clinical experience. Such a case adds to the terrors and worries of a medical life.

The case below is an excellent instance of the dangers run by medical men at the hands of unscrupulous women. At the Worcester Assizes, in 1889, Mr. Cuthbert, a surgeon, was put on trial accused of having administered a noxious drug, to wit, ergot, with intent to procure abortion. Mr. Lawson Tait, the President of the Medical Defence Union, attended to give evidence for the defence, but after the prosecutrix had been in the witness box, the case was stopped by the Judge, it being obvious to everyone that her evidence was altogether fabricated and unreliable, and there was little doubt that she had sent the ergot through the post to herself, before accusing the surgeon. She had been a nurse at the Selly Oak Workhouse, and in that capacity she had charge of the midwifery department, keeping the key of the dispensary and having the stock bottle of ergot in her care. It was found that the bottle, which she alleged Mr. Cuthbert had sent her, was labelled Ex. Ergot Liq., and it was pointed out that this was a very unusual abbreviation, doctors usually writing "Ext." The stock bottle also had the unusual abbreviation "Ex.," and she had obviously copied this.

The history of the woman was very unsatisfactory, and she was afterwards certified as insane.

At the Hertford Assizes, before Mr. Justice Bicknell, Dr. Lightfoot was convicted and sentenced to five years' penal servitude for using an instrument on a young woman named Hill with intent to procure her miscarriage. It was not disputed that Hill, who was unmarried and lived in another town than that at which Dr. Lightfoot practised, went to the house of the accused, and was examined by him. He used a catheter upon her, leaving it *in situ*, recommending her to return home and consult her usual medical attendant. Abortion followed. According to the defendant, eclampsia came on when the woman was in his consulting room, and he used the catheter as the most suitable instrument at hand in order to induce labour, sending her home because he could not keep her where she was. He accounted for the entries in his book, which did not state the facts accurately, as due to a mistake by his wife. He was so busy, he forgot the name of the medical man mentioned by his patient and so was not able to communicate with him. The Court declined to believe so unlikely a story. The Court of Criminal Appeal refused leave to appeal against the conviction.

A woman came to a doctor telling him she was pregnant and that she wished to have abortion procured. He naturally refused to have anything to do with such a matter. Later the woman returned, and was at that time so ill that he had her put to bed in his house. She aborted and died, quite clearly as the result of an operation which had been performed on her at some place outside. His friends advised him to go at once to the police and put all the facts before them. This was done by the doctor, and the police, after full investigation, were quite convinced that his tale was absolutely straightforward, and the whole affair fell through as far as he was concerned. If he had not been perfectly open and candid, the results might have been most serious to him.

A young medical man had been guilty of an illicit affair with a woman and she died suddenly with peritonitis. He was accused of having performed an illegal operation on her and was committed for trial. A post-mortem was performed, when it was proved that there had been no

abortion, but that she had died as the result of an ovarian abscess having burst into the peritoneal cavity, setting up peritonitis. This case also illustrates well the vital importance of a carefully performed autopsy.

CHARGE OF PROCURING ABORTION AGAINST A MEDICAL MAN. ACQUITTAL.

Dr. Wallace, of Beckenham, was at the Kent Assizes in 1898 tried for the alleged performance of an illegal operation on a girl named Warrilow. The case for the prosecution which was undertaken by the Treasury was quite unusual. There was no suggestion that the alleged operation had been performed for any fees, but it was sought to show that Dr. Wallace had taken advantage of the girl when she was unconscious in his surgery, and that this was the reason for the carrying out of the operation. The girl herself had no knowledge of any assault, and the evidence in support of it was in admissions said to have been made by the doctor at a later date and after he had used an instrument in the presence of the mother of the girl. This was when the pregnancy was discovered. The defence was that no operation had been performed. It was not denied that the girl suffered from an internal complaint, and Dr. Wallace said he had used a sound perfectly legitimately and with no previous knowledge of the pregnancy of the girl.

Mr. Justice Hawkins, in his address to the jury, remarked that the instrument in question was used legitimately, and there was no criminal act even if it were used negligently. It would be a monstrous thing if, in this country, it were said that a man must be convicted, or otherwise they would stamp somebody with perjury. He did not wish to impute to the mother that she had invented anything, but she had stated in the information on which the warrant of arrest was granted, that her daughter told her the circumstances of the assault, and that Dr. Devane and Dr. Sturges told her the instrument and medicines which the prisoner had used were those generally employed for an illegal purpose. That certainly was not true if they believed the girl herself, because she stated that she knew nothing of the assault, nor was it the fact that the doctors made the statement alleged.

No man would be safe if he depended for his liberty or character upon evidence which was not absolutely conclusive against him, particularly when his previous record was a good one. The jury returned a verdict of "Not guilty."

A girl named Ellen Cook in 1857 charged Mr. Delves, a surgeon of Tonbridge, with having in 1855 and again in 1857 procured abortion on her by the use of instruments, she being pregnant by him. In her evidence before the magistrates the girl said that Mr. Delves first gave her medicines to induce a miscarriage and this having failed, she went to his house one Sunday afternoon, soon after 3 o'clock, when the doctor gave her some liquid of a dark brown colour which made her insensible. After she recovered she noticed blood upon her clothes. She left the house at five, and walked home, a distance of about half a mile. She alleged that the same operation was repeated in the same manner in March of 1857, two years later, the time occupied being one and a half hours. The only corroborative evidence was that of her sister and her brother-in-law, who said that on both of the occasions their attention was attracted to the state of health of the girl, and that having questioned her, she told them what she had alleged in Court. The brother-in-law took her to Tonbridge to be examined by Dr. Walker. He as a practitioner working in the same town as Mr. Delves refused to undertake the case.

Mr. Delves at once brought an action against Dr. Walker, because he had mentioned what was being generally talked about in Tonbridge, namely, the matter of the two operations for abortion said to have been carried out. Dr. Walker offered to make every suitable apology and even to declare his disbelief in the statement of the girl, if it could be shown that she was not worthy of belief. He placed his case in the hands of his solicitor, who after putting the girl through a very thorough examination, sent to London for a physician to see her. Dr. Cook came down and he expressed the opinion that she had been pregnant, and that she had had abortion procured on her. Under these circumstances the solicitor of Dr. Walker said they saw no reason to discredit the statement of the girl, and that Dr. Walker could not in honour say what he did not feel, namely, that he now

disbelieved the allegation of Ellen Cook. Mr. Delves insisted on a retraction, so the case came to Court. The account in the *Lancet* of the hearing is most interesting, showing as it does the manner in which such matters were conducted some seventy years ago. "The result of this was the production at the first hearing of a new description of evidence involving a scientific question of great interest to the profession, and we will add of vital importance to the community. It was urged for Mr. Delves that the commission of the offence as stated by the girl Cook was actually impossible. Two surgeons, Mr. Trustram and Mr. Gorham, were called to prove that the extraction of the ovum under insensibility produced by a narcotic, within two hours, and the walking home of the patient immediately afterwards, constituted a series of events that could not occur. Mr. Trustram went so far as to say that the shortest time in which abortion had been known to be procured was ten hours. As to the possibility of abortion being so procured, the written statements of Sir Charles Locock, Dr. Conquest, Dr. Barnes, Dr. Ramsbotham and Dr. Hall Davies, can leave no doubt. But this is very different from affirming or proving that the offence as alleged by the prosecution was committed. There being no other testimony to support the charge, the bench very properly dismissed the case. It would have been well if the matter had ended here. But the animosities of local partizanship would not allow it to drop. At the hearing, a servant of Mr. Delves was produced, who proved that during the nine months that she was in his house she had never seen the girl Cook there. It was remarked that fifteen other months were left unnoticed. A servant who could speak to this period made a declaration before a magistrate, that she had repeatedly seen the prosecutrix at her master's house. With this corroborative testimony, the case was heard a second time before a full bench at which Alderman Solomons and Sir Charles Locock were present. On examination however, the new witness, Manser, was by no means so clear in her recollection as she had been a few days previously. She only "believed she had seen Cook at Mr. Delves's; she might be mistaken." It was broadly hinted by Mr. Sleigh, who conducted the prosecution, that she had been tampered with.

He appealed to the bench to have her written declaration read to contrast with her evidence. This was overruled. Indeed a witness who had exhibited such vacillations of memory should not be trusted either on the one side or the other. It only remained to hear the evidence of Dr. Lever and Dr. Barnes. These gentlemen again proved that the operation and the circumstances described by the girl were possible. The line of defence adopted by Mr. Ballantine was, to make it appear that the girl had put forward two different accounts of the proceeding to which she had been submitted ; that the tale told on the first hearing was quite different from that presented on the second, upon which the evidence of Dr. Lever and Dr. Barnes was taken ; and that therefore the prosecution had evidently fabricated the whole charge. The defence was ingenious, but it was not justified by the facts. The girl's story appears to have been at least consistently preserved. Dr. Cook proved that she had told him before the first hearing that "something had slipped away from her at stool the day after the first operation." It was urged that her first statement was, that the whole ovum had been forcibly extracted at the time of the operation; that the "something coming away the following day" was an invention to make her story more probable, and catch the assent of the London physicians. However, the bench did what they could not but do, they again dismissed the case. We regret to find that Dr. Walker's name has been mixed up in this transaction in a manner which places him somewhat in the light of a prosecutor.

We regard the decision, not only with respect, but with satisfaction. No practitioner of medicine could ever sleep in peace if a charge of this odious character were received on the unsupported testimony of the person who admits herself to have been a *particeps criminis.*

One point of public and professional interest established by the proceedings is, that abortion may be procured in a very short time, and that the patient may walk a considerable distance immediately afterwards. To make this matter clear is of the utmost importance for the due administration of justice, and the repression of a most abominable crime. A charge of this kind cannot henceforth be put out of court on the plea of impossibility."

Shortly afterward the following letter appeared in the *Lancet*:—

"SIR,—Pending legal proceedings against Dr. Walker and others, I am prevented showing the utter fallacy of the information on which your article in reference to my case is founded, but I pledge myself to do so as soon as my legal advisers permit me.

"I have only just now seen your article, having been at the seaside. I hope you will be good enough to insert this, as I should not wish my medical friends for one moment to think that I am unable to contradict it.

"I am, Sir,

"*Tonbridge*, "Your obedient Servant,

"*November*, 1857. "JOSEPH DELVES, M.R.C.S."

I have unfortunately not been able to trace any further proceedings in connection with the case.

The method of procedure adopted appears to be rather remarkable to us at the present day, but was no doubt due to the fact that prosecutions in 1853 were to a very large extent undertaken by private individuals, and not by the public authorities, a Public Prosecutor not being appointed till 1879. Evidently, too, the customs of procedure at that time were not quite the same as to-day.

CHAPTER XIX.

THE TRIAL OF DR. COLLINS FOR THE MURDER OF MRS. UZIELLI.

As a fuller illustration of a trial for criminal abortion than the examples already set out, that of Dr. Collins is here quoted. He was at one time Surgeon to the Guards, later fashionable West End practitioner, then a professional abortionist. The trial at the time it took place aroused an immense amount of public interest. It was followed with the greatest keenness, not only by the medical profession, but also by the lay public, and excited mingled feelings of satisfaction and regret, satisfaction because a rogue who was a disgrace to his profession had at last been tracked down, and regret that a man of such abilities and bright promise had been brought to shame and ruin.

W. Maunsell Collins, M.D., was born in Cork in 1844, and entered the Army in 1866 as assistant surgeon on the staff, passing first of all the candidates of that year and gaining the same distinction at Netley. In 1870 he was appointed assistant surgeon to the Scots Guards, and surgeon in the Army Medical Department in 1873. In 1880 he became surgeon to the Royal Horse Guards, retiring with a gratuity in 1885. He subsequently practised in the West End of London, and ended his career with seven years' penal servitude. After his release his conduct was on a par with his previous behaviour. A lady living at Brighton, who had been attended by him in his palmy days, decided that she would like to end her life and wrote to Collins asking him to supply her with sufficient poison. He replied that it was a very dangerous thing for him to do, but if he were paid a fee of £300 he would take the risk. The amount must be paid in cash, and not by cheque. The patient sent her housekeeper to the bank, who changed a cheque for the

requisite sum, which was handed to Collins in exchange for a small packet. This the patient swallowed. It had no effect on her, for she had been given some harmless powder. The patient was helpless, as Collins well knew; she could take no action against him, for she was herself *particeps criminis*.

The crime for which Collins was tried was quite straightforward. Mrs. Uzielli, a lady who took a prominent part in so-called fashionable society, found herself pregnant. She did not desire any more children, and, on the recommendation of a friend, she went to Collins, who was well known in her circle as an expert abortionist. She paid him thirty guineas to perform the usual illegal operation. As the result of this the unfortunate woman died of septic peritonitis. As is usual in these cases, the septic infection took place because, with the secrecy essential to carry out these criminal proceedings, proper aseptic precautions were impossible, and always will be impossible. Although his operations were quite well known, it was not till a death resulted that it was possible to bring home his guilt to the wretched criminal and secure a conviction. This unfortunately is the case with nearly all those who are charged by the law with this crime.

The trial took place before Mr. Justice Grantham at the Central Criminal Court on June 27, 1898, and subsequent days. The Attorney-General, Sir Richard Webster, Q.C., M.P., Mr. H. T. Sutton, Mr. Charles Matthews, and Mr. Bodkin appeared for the prosecution, and for the defence were Mr. C. F. Gill and Mr. A. E. Gill.

The Attorney-General in opening the case said that he had to put before the jury the facts which caused the death of Mrs. Uzielli on March 25, 1898. Dr. Collins, the prisoner, practised as a medical man at 10, Cadogan Place, and had not been called to see Mrs. Uzielli till Monday, March 14. She was then in good health. He attended her from March 14 to March 24, and during this time, according to statements the doctor made to Mr. Uzielli, there was nothing in the condition of Mrs. Uzielli to cause any alarm. He said up to the last moment of his attendance that there was not a single symptom to give rise to any anxiety. The jury had to consider whether or not her death was caused by anything done

by Dr. Collins. Between March 14 and March 24—a period of ten days—something happened. After Mrs. Uzielli's death there was a coroner's inquest and a post-mortem, and this disclosed the cause of death quite plainly. A wound was found about one inch and a quarter on the inner side of the os internum of the womb, made by some blunt-pointed instrument. That this wound was the cause of death in Mrs. Uzielli was quite certain. Whether it was made by Dr. Collins was for the jury to determine. The prosecution contended that the wound was made on Tuesday, March 15, and that all the symptoms which occurred after that date were consistent, to use no stronger expression, with the wound having been caused on that date. At the time of her first seeing the prisoner, on March 14, she was, as the medical evidence would establish, seven or eight weeks pregnant. She was most anxious not to have a child, and had treated herself with various medicines with the object of restoring her monthly periods. When she came to London from the country she was undoubtedly a healthy woman about two months pregnant. A friend of hers, to whom she made a statement as to her condition, wrote to Dr. Collins asking him to see some one for her, not mentioning Mrs. Uzielli by name. The deceased went with her friend to the house of Dr. Collins on March 14 and saw him in his consulting room. Whether anything was done to her then he could not say. On the next day Mrs. Uzielli again went to see Dr. Collins, and this time paid a longer visit. The prosecution alleged that certainly on this day Dr. Collins had used an instrument upon Mrs. Uzielli. He would deny it and say he had only made a digital examination, and one with a speculum. Undoubtedly she went into the consulting room, and was there twenty minutes alone with the doctor. She went out, apparently well, on Wednesday and Thursday. On the latter day she sent Dr. Collins a cheque for thirty guineas. Dr. Collins suggested that he had told Mrs. Uzielli his fees were two guineas for the first visit at his own house and one guinea after and two guineas at the house of Mrs. Uzielli. The cheque for thirty guineas was for payment for the visits already made and for future visits which he might make. On the Friday Mrs. Uzielli became ill, and Dr. Collins attended her three or four times a day. The next day her

husband was very anxious about his wife and spoke to the doctor about this worry. Mr. Uzielli was not satisfied, dismissed Dr. Collins, and Dr. Stivens was called in. He at once saw that Mrs. Uzielli was suffering from a very dangerous illness, acute septic peritonitis. Sir John Williams saw her the next day, pronounced her case hopeless, and she died the same day. It was for the jury to say what caused that state of things—was it something done by the prisoner, or was it not? The post-mortem disclosed the cause of the septic peritonitis. Whatever might have been the cause of the wound in the womb, it was undoubtedly this which set up the peritonitis from which Mrs. Uzielli died. At the request of Mr. Hall, a friend of Mr. Uzielli, Dr. Collins called on the morning after the death. He asked Mr. Uzielli if Dr. Stivens had refused to give a certificate and had suggested that he had done something illegal. It was for the jury to draw their own conclusions from these questions asked by the prisoner immediately after the death of Mrs. Uzielli. The coroner's jury had found Dr. Collins guilty of murder. The law was that in many cases, if in the course of an attempt to commit a felony or on unlawful act death was caused, it was or might be murder. But the jury would be told, no doubt, by his lordship, that if on the evidence they came to the conclusion that the act done, though unlawful in itself, was not such as of necessity to cause danger to life if not unskilfully performed, it was open to them to find the prisoner guilty of manslaughter and not of murder, assuming, of course, that they considered that death was occasioned by his act. It had also been laid down by great judges in the past that, as felonious intent was an implication of the law, the jury might disregard that intent if they did not think it established and find the prisoner guilty of manslaughter. The point for the jury to consider after hearing the evidence was, What was the cause of death, and was it caused by anything which the prisoner did?

Mr. Douglas Uzielli said he was a member of the London Stock Exchange, that his wife was about 30 years old, and that she had had two children. On the Friday before her death when he came home he found his wife had gone to bed. On the next day when he went home to dress, as he was dining out, he went in to see his wife

and found Dr. Collins in the room. Up to that time he did not know that Dr. Collins was in attendance at the house. He asked the doctor how his wife was and was told she was quite all right. The doctor told him he was coming to see Mrs. Uzielli later on that night, and asked for the latch-key so that he might let himself in. He found his wife was gradually getting worse, so two days before her death he took a note to his own doctor, Dr. Lyne Stivens, of Park Street. On returning home he saw Dr. Collins coming downstairs. Witness asked how his wife was, and the doctor told him quite all right, and that there was no cause for anxiety. The doctor said he had noticed that Mrs. Uzielli's manner towards him had changed and that if witness wished he could call in another practitioner. Witness was not to consider prisoner's feelings. Witness told him he should obtain other advice. Dr. Collins called after the death and told witness how dreadfully sorry he was about it. He seemed very much upset when asked if there was any suggestion that he had done anything illegal. Witness told Dr. Collins he thought there was. The doctor asked if there was going to be an inquest, and he also asked if a certificate had been refused. He kept saying he had done nothing, and would not leave for a long time. Mrs. Uzielli had her own banking account, and on March 17 had drawn a cheque for thirty guineas for Dr. Collins.

Chief Inspector Moore, of the C.I.D., said he arrested Dr. Collins under a warrant for causing the death of Mrs. Uzielli by unlawfully using an instrument for the purpose of causing a miscarriage. Dr. Collins replied: "There is no truth whatever in the accusation. I never did anything to this lady except what was proper and legitimate." In the consulting room witness found a number of instruments, which he produced, one being a long black whalebone instrument, another a long yellow catheter.

Dr. Bertram Lyne Stivens, in the course of his evidence, said when he first saw Mrs. Uzielli she was dangerously ill. She died shortly after from septic peritonitis. There had been a miscarriage. He had found at the post-mortem there was a place in the womb where the ovum had been attached. The wound in the uterus could not have come by itself; it must have been caused by something applied mechanically. Looking at the distance from the

vagina to the entrance to the womb, he did not see how it could have been caused by a finger.

Mr. Thomas Bond said that, in consequence of an order from the coroner, he had made a post-mortem on the body of Mrs. Uzielli. On examining the uterus he found a recent wound about an inch and a quarter from the mouth of the womb. It was in a septic condition. He thought it must have been caused by a blunt-pointed instrument, like a sound. He did not think it had been caused by a curette.

What had been the cause of death ?—Septic peritonitis.

Have you any doubt of that ?—None.

Bearing in mind what you said about the wound, do you connect the wound with peritonitis at all ?—I do.

Just tell us in your own way whether you think it is the consequence or cause, or what.—Septic peritonitis is caused by the introduction of germs into the blood through a wound. Here I found a septic wound, and my thirty years' experience would lead me to no other conclusion than that it was caused through the wound.

Sir John Williams said that, at the request of Dr. Stivens, he went to see Mrs. Uzielli. He found her in a dying condition suffering from septic peritonitis. He was not present at the post-mortem, but the parts taken away were shown him by Mr. Bond. The uterus had been pregnant about six weeks. About an inch and a half from the mouth of the womb was a wound, and he formed the opinion that it had been made by some blunt-pointed instrument. In his view it could not have been caused by a finger-nail. The miscarriage was the cause of the peritonitis and this was due to the instrument used being septic. If curetting had been done so recently as five or six days before, there should have been visible evidence of it. There was none.

Mr. C. F. Gill then addressed the jury. He said that the prisoner was charged with constructive murder, but he was as much on his trial as if he had hated Mrs. Uzielli and had deliberately killed her. Dr. Collins had a patient named Mrs. Hope, and she had suggested to the deceased that she should consult the prisoner. One of the first points of difference between the case for the prosecution and that for the defence was the condition of health of Mrs. Uzielli in March. The prosecution alleged that she

was a robust woman, and practically ignored her previous attack of peritonitis. That being the case, Mrs. Uzielli was in such a condition that peritonitis could be excited by a trivial cause. As to the medical evidence, he would remind the jury that if the case had been an action for damages against a railway company they would have had one man of distinction going into the box and saying that the shock would be disastrous to the plaintiff, while the medical man for the railway company would say that the symptoms were trifling and would soon pass away. He (counsel) was not in a position to call medical evidence. Dr. Collins had not the means to place his case before the jury in that way, but he contended that he had proved in cross-examination that it was in his power to call medical experts who would controvert every point which had been put forward. The medical men who had been called were of such eminence that it would have been expected that they would have agreed, yet the jury had heard diametrically opposed opinions expressed by them. It had been proved that Mrs. Uzielli had previously suffered from pneumonia, a disease which left its effects for years, and that she had had influenza lately. So severe had been this attack that she had been in bed three weeks and had been attended daily by her doctor. When she was better she had gone to Eastbourne, and had there been so weak that she had had to remain in the house or go out in a Bath-chair. That was the condition of things till February, and it was not therefore remarkable that she should have missed her period. She was anxious to bring it on and had tried all sorts of things. She then returned to town, and it had been proved that she was being supplied with medicines from some unknown source. Was a quack doctor treating her? How was she getting these medicines? Was it going very much further to suppose that she either got some ignorant person to operate upon her or that she did herself some injury? Dr. Collins did not know whether Mrs. Uzielli was pregnant or not. Was it conceivable that any man would perform an operation under these circumstances? At least he would not commit a crime without some safeguard or without some motive. What was the motive if there had been any criminal intent? In March Mrs. Uzielli had drawn a cheque for self for £300, and there would have

been no means of tracing the money if it had been paid to a man for an illegal act. If Dr. Collins had agreed to perform an illegal operation he would surely have insisted on being paid at the time and in cash so that it could not be traced. But Mrs. Uzielli had sent him a cheque altered from being payable to bearer to order, and thus making a complete record of the transaction. Dr. Collins had told the nurse that Mrs. Uzielli had had an early miscarriage, and he had tried to remove some membrane with his finger-nail. The wound of the womb could have been caused at that time, and once the wound was made there was abundant chance of sepsis. Dr. Collins had used a fine curette, as he failed to remove the membrane with his finger. No anæsthetic was given, and it was quite possible that Mrs. Uzielli had flinched and thus herself caused the wound. There ought to have been an independent man to perform the post-mortem, and Dr. Collins should have been given an opportunity of being present. What would have been the use even if he had called medical evidence? In the question at issue he could get sufficient material from the men who were called, but upon the question of the appearance of the body evidence would have been of no use unless he could call a man who had seen the post-mortem and who had had an opportunity of examining and forming an opinion. In conclusion Mr. Gill said that whatever was left to the prisoner in life was more important to others than to himself. His own career, after such a case, must necessarily be at an end. The only safe verdict was that the case had not been proved and that therefore Dr. Collins was not guilty.

The Attorney-General then replied on behalf of the prosecution. He submitted that every fact in the case showed that Mrs. Uzielli was pregnant, that she knew that she was pregnant, and acted to bring about that which she wished, namely miscarriage. He commented on the absence of medical men in the witness-box on behalf of the prisoner, and pointed out that in that great profession, which was generous and large-minded, there would have been no difficulty in procuring evidence in support of the views put forward on behalf of the prisoner if any one had held them. With reference to the suggestion made that Mrs. Uzielli was being treated only for suppressed menstruation, it was most important to

observe that when she got back to the house after her visit to Dr. Collins she gave directions to the maid for something that was going to happen. Dealing with the post-mortem examination, the Attorney-General said there was evidence that there had recently been an ovum in the womb and that this ovum had been expelled. There was also evidence that four or five or six days before the death of the lady there had been a heavy discharge from the womb. It was perfectly clear that Mrs. Uzielli had died of septic peritonitis. This was not disputed. It was also known that a wound in the position in which the wound was found would be responsible for the mischief. It was known also that the ordinary course of septic peritonitis was that it developed from two or three days after the poisoning had taken place and was followed by rise of temperature, feverishness, and restlessness supervening about three or four days after the infection occurred. It was practically established that the miscarriage was the result of something done on the Tuesday, and that it was brought about by the puncturing of the membrane either by a metallic or other sound. The statement that the wound was the result of curetting must be discredited. If the curetting did take place it was a remarkable thing that there should have been no mark or sign of any kind of it. He protested against the suggestion of the defence that Dr. Collins had been treated in any unfair way, or that any improper attempt had been made to get up evidence against him. With regard to the law of the case, the Attorney-General pointed out that the prisoner was charged with constructive wilful murder, because, if he was committing an unlawful act, the law said that in one view death thereby occasioned was murder. But the law also said that if the act were not in it itself of necessity dangerous, then the jury might find a verdict of manslaughter, and in that case it had been elicited by Mr. Gill from Dr. Stivens that the risk of procuring abortion from puncture of the membranes was practically *nil*. If the jury had any doubt whether the prisoner had caused the death of Mrs. Uzielli, he invited them to give the prisoner the benefit of that doubt. But if they had no reasonable doubt that her death was caused by the act of the prisoner, they were bound to do their duty and return such verdict as was in accordance with their consciences.

Mr. Justice Grantham, in summing up, said nothing could have been better than the defence made by Mr. Gill. With regard to the law, there was no doubt as to its meaning. A person who with intent procured the miscarriage of a woman by the unlawful use of an instrument was guilty of a felony, and assuming that the person did not die, was liable to penal servitude or any imprisonment that a judge might think fit to inflict. It could be well understood that there were cases where it was necessary. in order to save the life of a woman, that there should be a forcible miscarriage, and a properly qualified doctor had to say when that time had arrived. That was not unlawful. If in consequence of an unlawful operation the patient died, that was murder. But he could not ignore the fact that juries not unnaturally declined to find a verdict of murder when the person performing the operation did not do it against the will of the person operated on, when in fact he was bribed to do it. The operation was an illegal one, and any person who submitted to it was herself guilty of the same felony as the person who performed it. But unfortunately in most cases the woman had paid the penalty and had gone before another Judge. It had been suggested by Mr. Gill that prisoner had been unable to find medical witnesses owing to poverty, but there was very little foundation for that statement. It had also been suggested that Dr. Collins should have been represented at the post-mortem by an independent doctor, but Mr. Bond had been appointed by the coroner to be just such an independent witness. It would open the door to great difficulty if a person charged with an offence of that kind were allowed to be present while the post-mortem was going on. An accidental blow on the arm, an accidental fall of something, would obliterate the whole evidence that could be got. (In the Palmer case, of which doubtless his lordship was thinking, this very thing happened, except that the blow was not accidental.) His lordship then proceeded to review the evidence. There was no doubt that the case would not have been started but for the statement of Dr. Lyne Stivens, and his conduct had been commented upon; yet in all the cases which he had ever tried he had never had one in which it was so clearly the duty of the doctor in attendance to do exactly that which Dr. Stivens had done on this occasion. The real questions for the

jury were—(1) Was the woman pregnant? and (2) Did she have a miscarriage? Dr. Collins admitted that Mrs. Uzielli had had a miscarriage and stated that when he first saw her she had a retroverted womb, but the evidence of Dr. Stivens, Mr. Bond and Sir John Williams was that it was impossible that she could have had it because of the old adhesions. As regards the condition of Mrs. Uzielli on the day before her death, Dr. Stivens the moment he saw her knew what she was suffering from. That was only an hour or two after Dr. Collins had left, and it seemed incredible that he was ignorant of the true nature of the disease. It was difficult to understand why he should fear an inquest if he had been properly treating his patient. There was not a tittle of evidence to confirm the suggestion that the abortion was brought about by somebody else. His Lordship then referred to the medical evidence. The uterus and other parts had been preserved, and they could have been examined, and other evidence could have been given to contradict what Mr. Bond, Dr. Stivens and Sir John Williams had said. The result of Sir John Williams' evidence was that death was due to septic peritonitis, and that this had been caused by the wound. How the wound was made was the question on which the whole case turned. If the evidence pointed out that it was brought about by artificial means, the question was: Who could have done it? If the jury believed that Dr. Collins had given an untrue account of his position, then they would be justified in coming to the conclusion that the other evidence pointed strongly to the fact that his must be the hand that did it.

The jury after deliberating for fifty minutes, found the prisoner guilty of manslaughter, and strongly recommended him to mercy. The foreman handed the Judge the following rider: "The jury wish to express their deep concern at and condemnation of the growing tendency on the part of certain classes of the community, as proved by the evidence in this case, to avail themselves of their marital rights and to try to evade the responsibility of their acts."

In reply to the question of why sentence should not be pronounced, the prisoner protested his innocence.

Mr. Justice Grantham sent Collins to penal servitude for seven years.

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